



# CITY OF MCKINNEY, TEXAS

## Agenda

### City Council Work Session

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Monday, August 14, 2017

6:00 PM

Jack Hatchell Collin County  
Administration Building  
4th Floor – Commissioners Court  
2300 Bloomdale - McKinney, TX

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#### CALL TO ORDER

#### DISCUSS REGULAR MEETING AGENDA ITEMS

#### WORK SESSION ITEMS

- 17-806**      [Consider and Discuss Funding Update from Carleton Development and McKinney Housing Authority on the Redevelopment of Merritt Homes, aka Merritt McGowan Manor](#)  
*Attachments:*    [Updated Merritt Sources and Uses](#)  
                                 [12.23.16 Merritt Sources and Uses to City](#)
- 17-807**      [Discuss Potential Park Development to Serve the Trinity Heights Subdivision](#)  
*Attachments:*    [Location Map and Aerial Exhibit](#)  
                                 [Trinity Heights Plat Phase 1](#)  
                                 [Presentation](#)
- 17-808**      [Consider and Discuss Potential Amendments to the Code of Ordinances to Address the Permitting and Platting of Single Family Residential Structures in the Extraterritorial Jurisdiction \(ETJ\)](#)  
*Attachments:*    [April 2017 Presentation](#)  
                                 [July 2017 Presentation](#)  
                                 [Potential Changes to Sec 122-4](#)  
                                 [Potential Changes to Sec 142-5](#)
- 17-809**      [Consider and Discuss Potential Amendments to the City's Food Truck Requirements](#)

**Attachments:** [Existing Food Truck Regulations Presentation](#)

**COUNCIL LIAISON UPDATES**

**EXECUTIVE SESSION**

In Accordance with the Texas Government Code:

A. Section 551.071 (2). Consultation with City Attorney on any Work Session, Special or Regular Session agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said items (as needed) and legal consultation on the following item(s), if any:

B. Section 551.071 (A) Pending or contemplated litigation

- Arch Resorts, LLC v. the City of McKinney, Texas, and Rick Herzberger, Chief Building Official of the City of McKinney, Texas, v. Collin County, Texas, No. 219-01855-2015, 219th District Court of Collin County, Texas
- Petition of the Cities of Garland, Mesquite, Plano, and Richardson Appealing Wholesale Water Rates Implemented by North Texas Municipal Water District, PUC Docket No. 46662, Public Utility Commission of Texas
- Application of Brazos Electric Power Cooperative, Inc. for Amendment to its Certificate of Convenience and Necessity for a 138-KV Transmission Line in Collin County, PUC Docket No. 46429, Public Utility Commission of Texas
- City of McKinney v. Newland Communities/Club Corp.

C. Section 551.072. Deliberations about Real Property

- Municipal Facilities

D. Section 551.087 – Discuss Economic Development Matters

- Project A146 – Project Frost
- Project A171 – Project Skywalker
- Project A179 – Project Summit

**ACTION ON EXECUTIVE SESSION**

**ADJOURN**

Posted in accordance with the Texas Government Code, Chapter 551, on the 11th day of August, 2017 at or before 5:00 p.m.

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Sandy Hart, TRMC, MMC  
City Secretary

In accordance with the Americans with Disabilities Act, it is the policy of the City of McKinney to offer its public programs, services, and meetings in a manner that is readily accessible to everyone, including individuals with disabilities. If you are a person with a disability and require information or materials in an appropriate alternative format; or if you require any other accommodation, please contact the ADA Coordinator at least 48 hours in advance of the event. Phone 972-547-2694 or email [contact-adacompliance@mckinneytexas.org](mailto:contact-adacompliance@mckinneytexas.org). Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility. ADA grievances may also be directed to the ADA Coordinator or filed online at <http://www.mckinneytexas.org/ada>.



**TITLE:** Consider and Discuss Funding Update from Carleton Development and McKinney Housing Authority on the Redevelopment of Merritt Homes, aka Merritt McGowan Manor

**COUNCIL GOAL:** Enhance the Quality of Life in McKinney

**MEETING DATE:** August 14, 2017

**DEPARTMENT:** Housing and Community Development

**CONTACT:** Janay Tieken, Housing and Community Development Manager

**RECOMMENDED CITY COUNCIL ACTION:**

- Consider/Discuss Merritt McGowan Manor Redevelopment Funding Update

**ITEM SUMMARY:**

- Carleton Development and McKinney Housing Authority requested a Resolution of Support from the City for the 9% tax credit application to Texas Department of Housing and Community Affairs (TDHCA) for the redevelopment of Merritt Homes.
- The Sources and Uses originally presented to City Council for the project have changed.

**BACKGROUND INFORMATION:**

- The McKinney Housing Authority (MHA) has submitted an application to MCDHC for \$500,000 for the redevelopment of Merritt Homes. This funding source was not originally included in the Sources and Uses presented to City Council for consideration of the 9% tax credit application.
- MCDHC will consider the \$500,000 funding request from the McKinney Housing Authority on August 24, 2017.

**FINANCIAL SUMMARY:**

- See attached Sources and Uses summaries.

**BOARD OR COMMISSION RECOMMENDATION:**



- N/A

**SUPPORTING MATERIALS:**

[Updated Merritt Sources and Uses](#)

[12.23.16 Merritt Sources and Uses to City](#)

<b>MHA Redevelopment Project Financing Comparison</b>	<b>Newsome Closing Numbers</b>	<b>Merritt with Newsome Equity Price</b>	<b>Merritt City Submission</b>	<b>Merritt TDHCA Application Submission</b>	<b>Merritt TDHCA Application Underwriting</b>	<b>Merritt MCDC Presentation</b>	<b>Merritt including Impact Fees &amp; Reimbursement</b>
			<b>12/23/2016</b>	<b>3/1/2017</b>	<b>6/30/2017</b>	<b>7/27/2017</b>	<b>8/5/2017</b>
<b>Total Units</b>	<b>180</b>	<b>180</b>	<b>136</b>	<b>136</b>	<b>136</b>	<b>136</b>	<b>136</b>
<b>Price per Tax Credit*</b>	<b>\$1.03</b>	<b>\$1.03</b>	<b>\$0.95</b>	<b>\$0.95</b>	<b>\$0.95</b>	<b>\$0.95</b>	<b>\$0.95</b>
<b>Permanent Interest Rate</b>	<b>4.0%</b>	<b>6.5%</b>	<b>6.5%</b>	<b>6.5%</b>	<b>6.5%</b>	<b>6.5%</b>	<b>6.5%</b>
<b>Uses</b>							
Land Lease	65	250,000	250,000	250,000	250,000	250,000	250,000
Demo	450,000	550,000	600,000	550,000	550,000	550,000	550,000
Construction Costs	14,754,726	15,390,720	15,200,000	15,390,720	15,390,720	15,390,720	15,390,720
Soft Costs	6,815,955	5,463,150	6,093,525	5,463,150	5,463,150	5,463,150	5,893,150
Reserves & Contingency	1,071,181	811,184	812,943	811,184	811,184	811,184	811,184
<b>Total Uses</b>	<b>\$23,091,927</b>	<b>\$22,465,054</b>	<b>\$22,956,468</b>	<b>\$22,465,054</b>	<b>\$22,465,054</b>	<b>\$22,465,054</b>	<b>\$22,895,054</b>
<b>Sources</b>							
First Mortgage	10,423,630	7,314,879	5,406,495	7,314,879	7,474,879	7,474,879	7,474,879
Tax Credit Equity	8,568,743	15,448,455	16,518,373	14,248,575	14,248,575	14,248,575	14,248,575
GP Equity	100	100	100	100	100	100	100
City In-Kind - Permits & Inspections		1,500	1,500	1,500	1,500	1,500	1,500
Soft Loan - City Funds	1,156,052	0	0	0	0	0	0
Soft Loan - MHA Funds	550,000	0	0	0	0	0	0
Soft Loan - MCDC Funds	450,000	0	0	0	0	500,000	500,000
Soft Loan - CDBG Funds	100,000	0	0	0	0	0	0
Soft Loan - Parkland & Impact Fee Reimburse	450,000	0	430,000	0	0	0	430,000
Land Lease Note & Deferred Fees	1,393,402	0	600,000	900,000	740,000	240,000	240,000
<b>Total Sources</b>	<b>\$23,091,927</b>	<b>\$22,764,934</b>	<b>\$22,956,468</b>	<b>\$22,465,054</b>	<b>\$22,465,054</b>	<b>\$22,465,054</b>	<b>\$22,895,054</b>
<b>Excess (Deficit)</b>	<b>(\$0)</b>	<b>\$299,880</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Each \$.01 of tax credit pricing is worth roughly \$150,000 in equity to the project.

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**McKinney Housing Authority &  
Carleton Residential Properties**

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Updated: 12/23/2016

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**Merritt Homes 9% Tax Credit**

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**Total Units** **136**

**1BR** **44**

**2BR** **52**

**3BR** **40**

**RAD Units** **59**

**Uses**

**Land Lease** **250,000**

**Demo** **600,000**

**Construction Costs** **15,200,000**

**Soft Costs** **6,093,525**

**Reserves & Contingency** **812,943**

**Total Uses** **\$22,956,468**

**Sources**

**Debt Capacity at 1.25 x** **@** **6.50%** **5,406,495**

**City Waivers - Permits & Inspections (Required)** **1,500**

**City Reimbursement - Parkland Fees** **90,000**

**City Reimbursement - Impact Fees** **340,000**

**GP Equity** **100**

**Tax Credit Equity** **@** **\$0.95** **16,518,373**

**Deferred Developer Fee** **600,000**

**Total Sources** **\$22,956,468**



17-807

**TITLE:** Discuss Potential Park Development to Serve the Trinity Heights Subdivision

**COUNCIL GOAL:** Enhance the Quality of Life in McKinney

**MEETING DATE:** August 14, 2017

**DEPARTMENT:** Parks & Recreation

**CONTACT:** Michael Kowski, AICP CUD, Director of Parks & Recreation

**RECOMMENDED CITY COUNCIL ACTION:**

- Consider and discuss potential park development to serve the Trinity Heights subdivision.

**ITEM SUMMARY:**

- Mayor Fuller and Council member Shemwell have requested that staff review ideas for a park to serve the Trinity Heights subdivision, which currently does not have dedicated parkland or similar amenities within or abutting the neighborhood.

**BACKGROUND INFORMATION:**

- Trinity Heights is a 40-acre, single-family subdivision containing 168 lots located on the east side of SH 5 and south of Bloomdale Road.
- The City approved the subdivision in 2003 and the neighborhood is completely built out. There is an active HOA that, among other things, owns and maintains common areas within the subdivision.
- The City approved Trinity Heights without a dedicated park. Per the metrics in effect at that time, the developer was required to contribute cash in lieu of physical land based upon a parkland dedication requirement of roughly 2.5-acres, or \$88,200.
- The City, then and now, considers accepting cash in lieu of physical parkland in those instances where the dedication requirement is under 10-acres.

- Today, park facilities near this subdivision include North Park/Juanita Maxfield Aquatic Center (15-acres) located about 1-mile to the south, and Inspiration Park (10-acres) situated approximately 1.3-miles to the northwest and attached to Naomi Press Elementary School within the Pecan Ridge subdivision. Oak Hollow Golf Course is also less than one-half mile to the south. These amenities are located on the west side of SH 5, and the measurements referenced above are based on driving/walking distances.
- A 10.4 acre common area wraps around the north and east sides of the Trinity Heights development and remains undeveloped. This land is owned and maintained by the Trinity Heights HOA. The HOA has the right to improve the common area (i.e. install passive or active park amenities) as it sees fit provided that all necessary approvals, if required, are obtained from the City and applicable outside agencies.
- The residents of Trinity Heights have contacted the City on multiple occasions requesting that we take over ownership and maintenance of the common area. The residents further desire the City to convert some portion of the common area into a public park. A formal request was brought forward to the Council as recently as 2012, and the final decision was to keep things as they stand due to the unique property characteristics described below.
- General access and visibility into the common area is extremely limited due to the layout of the existing houses. Non-vehicular access points exist at both the northeast and northwest corners of Trinity View Drive. Evidence from a recent site visit confirms that the HOA mows the access points and may also mow portions of the main common area a limited number of times a year.
- The majority of the common area is located within the 100 year floodplain and is covered by a Common Area, Drainage and Floodway Easement, as well as various Access, Overflow and Utility Easements.
- The natural features of the common area include rolling topography significantly lower than the abutting developed lots (retaining walls are present), multiple acres of standing water, tributaries to the East Fork of the Trinity River, and pockets of marshlands, wetland plants, and mature tree canopies. A small flat area exists at the northeast quadrant of the parcel that is used to capture and convey storm water discharge from the subdivision's storm sewers.
- Staff also looked at a 6.81 acre tract immediately east of Trinity Heights common area that is owned by the City. This parcel shares the same natural features as the HOA's common area, but it is even more isolated from the perspective of both access and visibility. Moreover, the working draft of the City's updated Comprehensive Plan contemplates a new road connection across this parcel as part of a new Master Thoroughfare Plan.

**FINANCIAL SUMMARY:**

- N/A

**BOARD OR COMMISSION RECOMMENDATION:**

- N/A

**SUPPORTING MATERIALS:**

[Location Map and Aerial Exhibit](#)

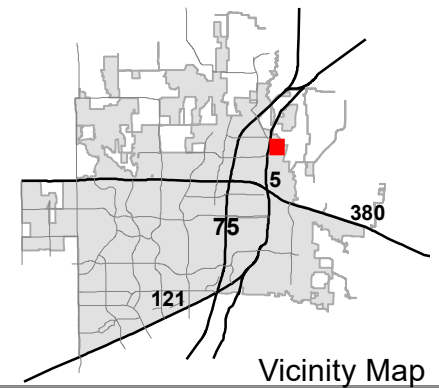
[Trinity Heights Plat Phase 1](#)

[Presentation](#)



## Location Map

Trinity Heights Subdivision

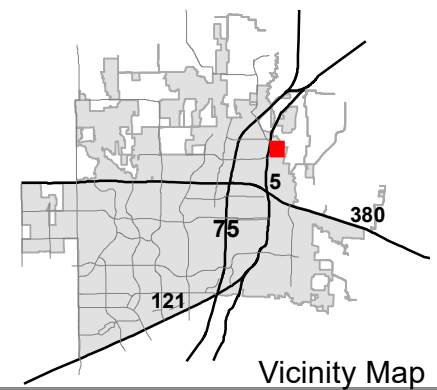






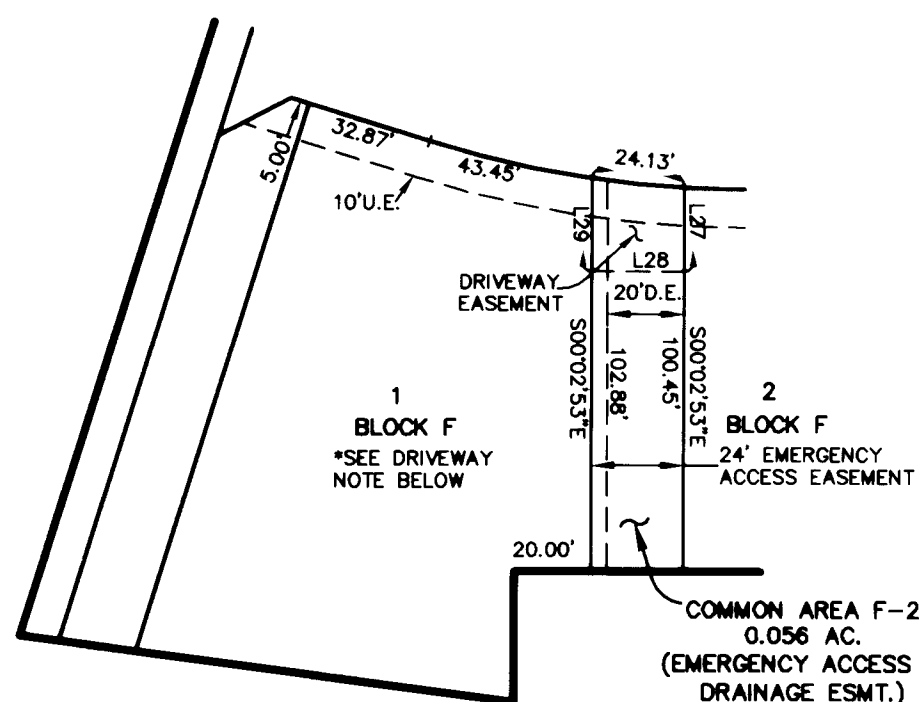
## Location Map

Trinity Heights Subdivision





8347



EMERGENCY ACCESS  
DETAIL

LOT 1, BLOCK A  
CROOKED CREEK/BLUE MOUNTAIN  
ADDITION  
CABINET L, PAGE 714

TEXAS STATE PLANE COORDS.  
ZONE-TX NORTH CENTRAL  
N=7,136,915.58 FT.  
E=2,546,011.24 FT.

P.O.B.

$\Delta=116^{\circ}38'$   
 $R=3870.00'$   
 $L=86.26'$   
 $T=43.13'$   
 $CB=N16^{\circ}26'32"E$   
 $C=86.26'$

COMMON AREA B-1  
(20' COMMON AREA &  
LANDSCAPE ESMT.)  
0.094 AC.

COMMON AREA F-1  
(20' COMMON AREA &  
LANDSCAPE ESMT.)  
0.087 AC.

MIKE GRACY AND SONYA GRACY  
1.442 ACRE  
C.C.F.# - 97-0069263  
D.R.C.C.T.

THOMAS C. EUBANKS AND WIFE,  
BRENDA J. EUBANKS  
TRACT 2-2.749 ACRE  
C.C.F.# - 96-0031749  
D.R.C.C.T.

THOMAS C. EUBANKS AND WIFE,  
BRENDA J. EUBANKS  
TRACT 1-1.288 ACRE  
C.C.F.# - 96-0031749  
D.R.C.C.T.

HERBERT L. JOHNSON AND  
WIFE JOYCE L. JOHNSON  
1.23 ACRE  
C.C.F.# - 96-0081103  
D.R.C.C.T.

KENNETH J. GRACY AND  
KAREN S. GRACY  
2.5639 ACRE  
VOL. 3318, PG. 970  
D.R.C.C.T.

LOUISE GLENN  
15.80 ACRE  
C.C.F.# 98-0004905  
D.R.C.C.T.

TEXAS STATE PLANE COORDS.  
ZONE-TX NORTH CENTRAL  
N=7,137,779.75 FT.  
E=2,547,450.64 FT.

S88°44'22"E 1004.99'

COMMON AREA A-2  
(453,893 S.F./10.420 AC.)  
COMMON AREA, DRAINAGE,  
AND FLOODWAY ESMT.

FLOODWAY  
ACCESS

PROPOSED FIS 100  
YEAR FLOOD PLAIN PER  
"CONDITIONAL LETTER OF  
MAP REVISION" (CLOWR)  
FEMA CASE NO.  
03-06-183R DATED  
MARCH, 5, 2003

COMMON AREA A-2  
(453,893 S.F./10.420 AC.)  
COMMON AREA, DRAINAGE,  
AND FLOODWAY ESMT.

EXISTING CORRECTED  
EFFECTIVE FIS 100 YEAR  
FLOOD PLAIN PER FLOOD  
STUDY BY JONES &  
BOYD, INC. DATED APRIL  
05, 2002.

OFFSITE DRAINAGE & UTILITY  
EASEMENT (Doc. No.  
2003-0234353).

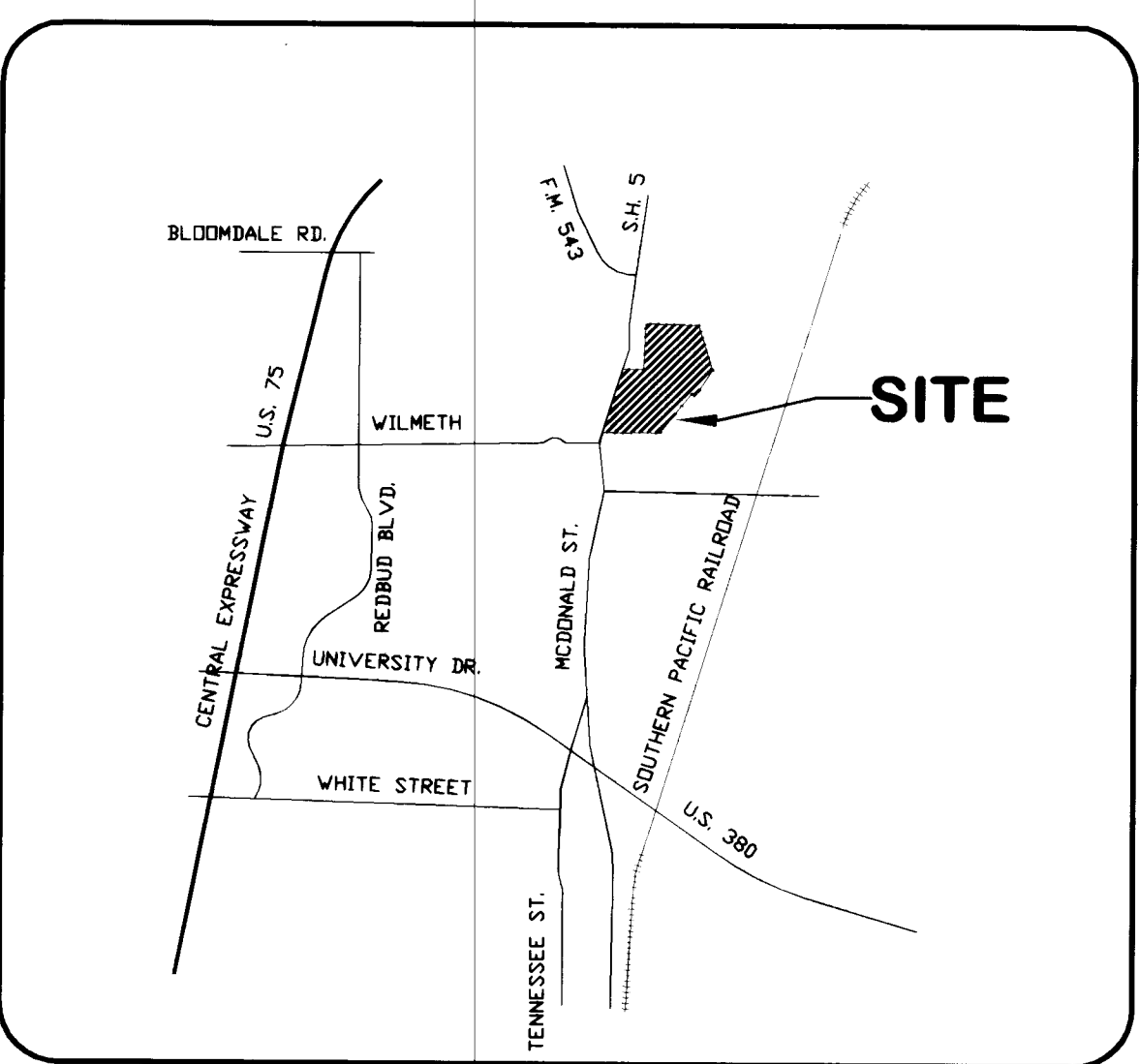
JERRY R. LONG, ET AL  
125.9668 ACRE  
VOL. 2498, PG. 295  
VOL. 3348, PG. 507  
D.R.C.C.T.

NOTES

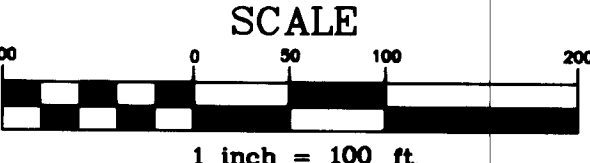
- \* DRIVEWAYS LOCATED ON THE FOLLOWING  
LOTS SHALL BE LOCATED A MINIMUM OF 100 FEET EAST  
OF THE CURB RETURN AT STATE HIGHWAY NO. 5:  
BLOCK A, LOTS 1; BLOCK B, LOTS 1 & 19; BLOCK F, LOT 1
- ALL LOTS COMPLY WITH THE MINIMUM STANDARDS AS  
ESTABLISHED BY THE ZONING DISTRICT.
- ALL COMMON AREAS TO BE MAINTAINED BY THE H.O.A.,  
UNLESS OTHERWISE STATED.

DOUGLAS L. MCCOOL  
C.C.F.# 94-0050673  
D.R.C.C.T.

FROM: R-6284-000-0130-1 7.7058 AC  
FROM: R-6257-000-0140-1 32.8042 AC  
FROM: \_\_\_\_\_ YEAR: 2004



LOCATION MAP  
NOT TO SCALE



LEGEND

- O.I.R.F. IRON ROD FOUND
- O.I.R.S. IRON ROD SET
- "CM" CONTROL MONUMENT
- D.E. DRAINAGE EASEMENT
- S.S.E. SANITARY SEWER EASEMENT
- F.I.S. FLOOD INSURANCE STUDY
- M.H.S. MAN HOLE (SANITARY SEWER)
- M.F.F. MINIMUM FINISHED FLOOR ELEVATION
- ◆ STREET NAME CHANGE

LINE TABLE		
LINE	BEARING	LENGTH
L1	S28°45'48"E	21.62'
L2	N62°18'00"E	21.21'
L3	S72°42'00"E	63.78'
L4	N44°57'07"E	21.21'
L5	S45°02'53"E	21.21'
L6	S45°02'53"E	21.21'
L7	N44°57'07"E	21.21'
L8	N45°05'43"E	21.27'
L9	S44°54'04"E	21.16'
L10	N46°51'54"E	21.21'
L11	S43°08'06"E	21.21'
L12	N46°51'40"E	21.21'
L13	S57°57'32"E	21.06'
L14	N32°02'28"E	21.36'
L15	S57°57'32"E	21.06'
L16	S32°02'28"W	21.36'
L17	S57°57'32"E	21.06'
L18	S32°02'28"W	21.36'
L19	S83°35'47"E	24.68'
L21	N88°08'06"W	14.85'
L22	N88°08'06"W	14.85'
L24	N57°57'32"W	28.09'
L25	S32°02'28"W	28.48'
L26	S43°08'06"E	28.28'
L27	S00°02'53"E	21.99'
L28	S89°57'07"W	24.00'
L29	N00°02'53"W	24.42'
L30	S27°42'00"E	21.21'
L31	N62°18'00"E	21.21'

CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHD. BEARING	CHORD
C1	83.26'	275.00'	17°20'53"	41.95'	S81°22'27"E	82.95'
C2	75.70'	250.00'	17°20'53"	38.14'	S81°22'26"E	75.41'
C3	68.13'	225.00'	17°20'53"	34.33'	S81°22'26"E	67.87'
C4	75.70'	250.00'	17°20'53"	38.14'	S81°22'27"E	75.41'
C5	243.92'	1050.00'	131°18'37"	122.51'	N83°17'49"E	243.37'
C6	238.11'	1025.00'	131°18'37"	119.60'	N83°17'49"E	237.58'
C7	232.31'	1000.00'	131°18'37"	116.68'	N83°17'49"E	231.79'
C8	185.85'	800.00'	131°18'37"	93.34'	N83°17'49"E	185.43'
C9	180.04'	775.00'	131°18'37"	90.43'	N83°17'49"E	179.63'
C10	174.23'	750.00'	131°18'37"	87.51'	N83°17'49"E	173.84'
C11	49.27'	2000.00'	1°24'42"	24.64'	S01°09'33"W	49.27'
C12	65.94'	1975.00'	1°54'47"	32.97'	S00°54'30"W	65.94'
C13	47.60'	1950.00'	1°23'55"	23.80'	S01°09'56"W	47.60'
C14	223.04'	840.00'	15°12'48"	112.18'	N84°14'54"E	222.38'
C15	216.54'	815.00'	15°13'24"	108.91'	N84°15'12"E	215.91'
C16	209.75'	790.00'	15°12'45"	105.50'	N84°14'53"E	209.14'
C17	144.61'	550.00'	15°03'54"	72.73'	N84°10'27"E	144.20'
C18	139.49'	525.00'	15°13'24"	70.16'	N84°15'12"E	139.08'
C19	129.56'	500.00'	14°50'46"	65.14'	N84°03'53"E	129.19'
C20	101.45'	390.00'	14°54'17"	51.01'	N84°05'39"E	101.17'
C21	123.62'	50.00'	141°39'19"	143.80'	S46°51'03"W	94.45'
C22	124.34'	50.00'	142°28'58"	147.22'	N57°57'32"W	94.69'
C23	122.95'	50.00'	140°53'06"	140.75'	N32°02'28"E	94.23'
C24	77.05'	290.00'	15°13'24"	38.75'	N84°15'12"E	76.83'
C25	82.37'	310.00'	15°13'24"	41.43'	N84°15'12"E	82.12'
C26	226.02'	310.00'	41°46'28"	118.30'	N82°28'16"W	221.05'
C27	211.44'	290.00'	41°46'28"	110.67'	N82°28'16"W	206.79'
C28	79.34'	3900.00'	1°09'56"	39.67'	N16°15'35"E	79.34'

S8347

Record Plat  
TRINITY HEIGHTS PHASE ONE

40.510 ACRES OUT OF  
TOLA DUNN SURVEY, ABSTRACT NO. 284  
JOHN DUNCAN SURVEY, ABSTRACT NO. 259  
CITY OF MCKINNEY  
COLLIN COUNTY, TEXAS

MDC-TRINITY HEIGHTS L.P.

OWNER

1420 W. Mockingbird Lane, Suite 500  
Dallas, Texas 75247

(214) 630-0481

JONES & BOYD, INC.

SURVEYOR/ENGINEER

16800 Dallas Parkway, Suite 240  
Dallas, Texas 75248

(972)248-7676

166 SINGLE FAMILY LOTS

October 21, 2003

Sheet 1 of 2

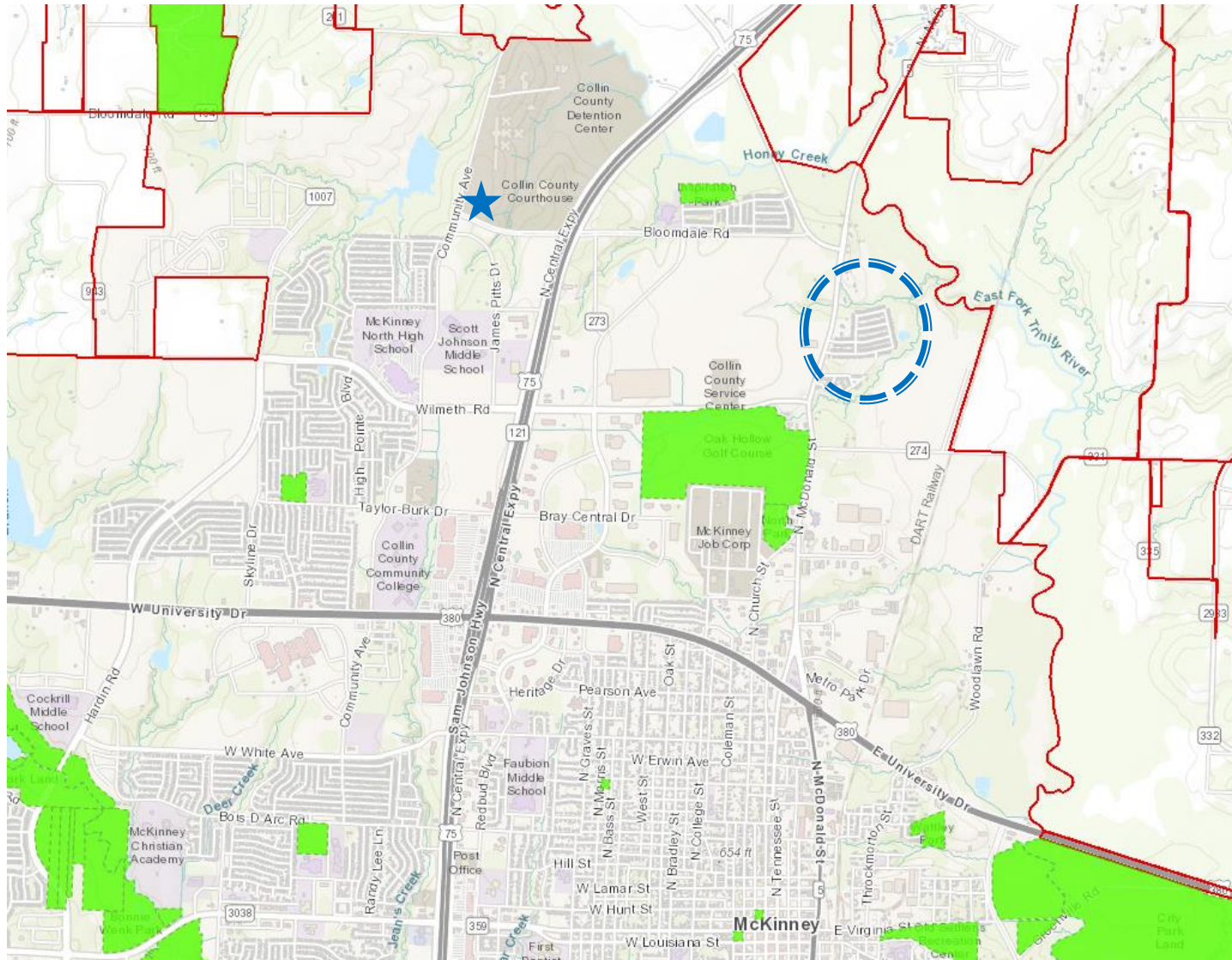
# Trinity Heights Park Discussion

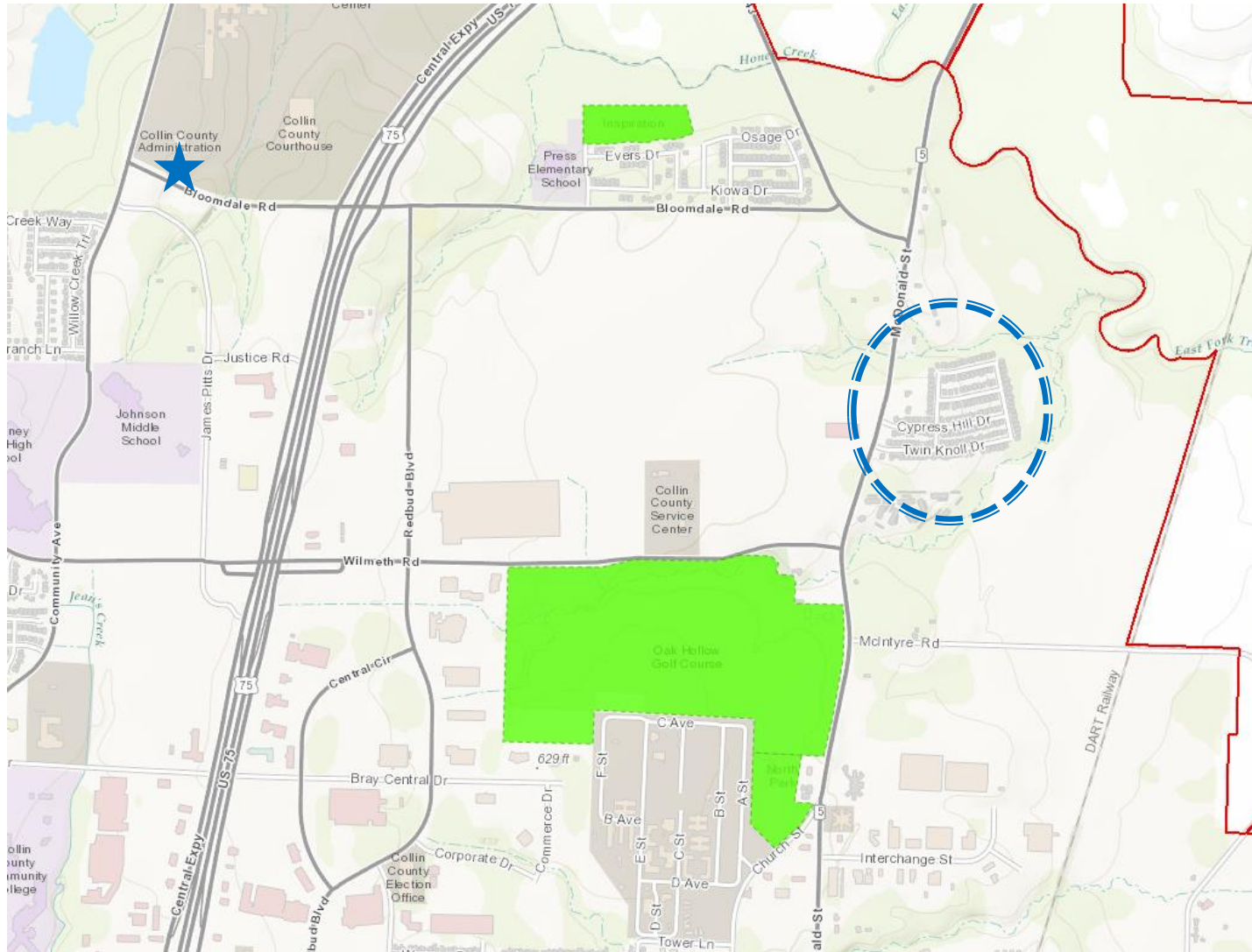
Michael Kowski

*Director of Parks & Recreation*











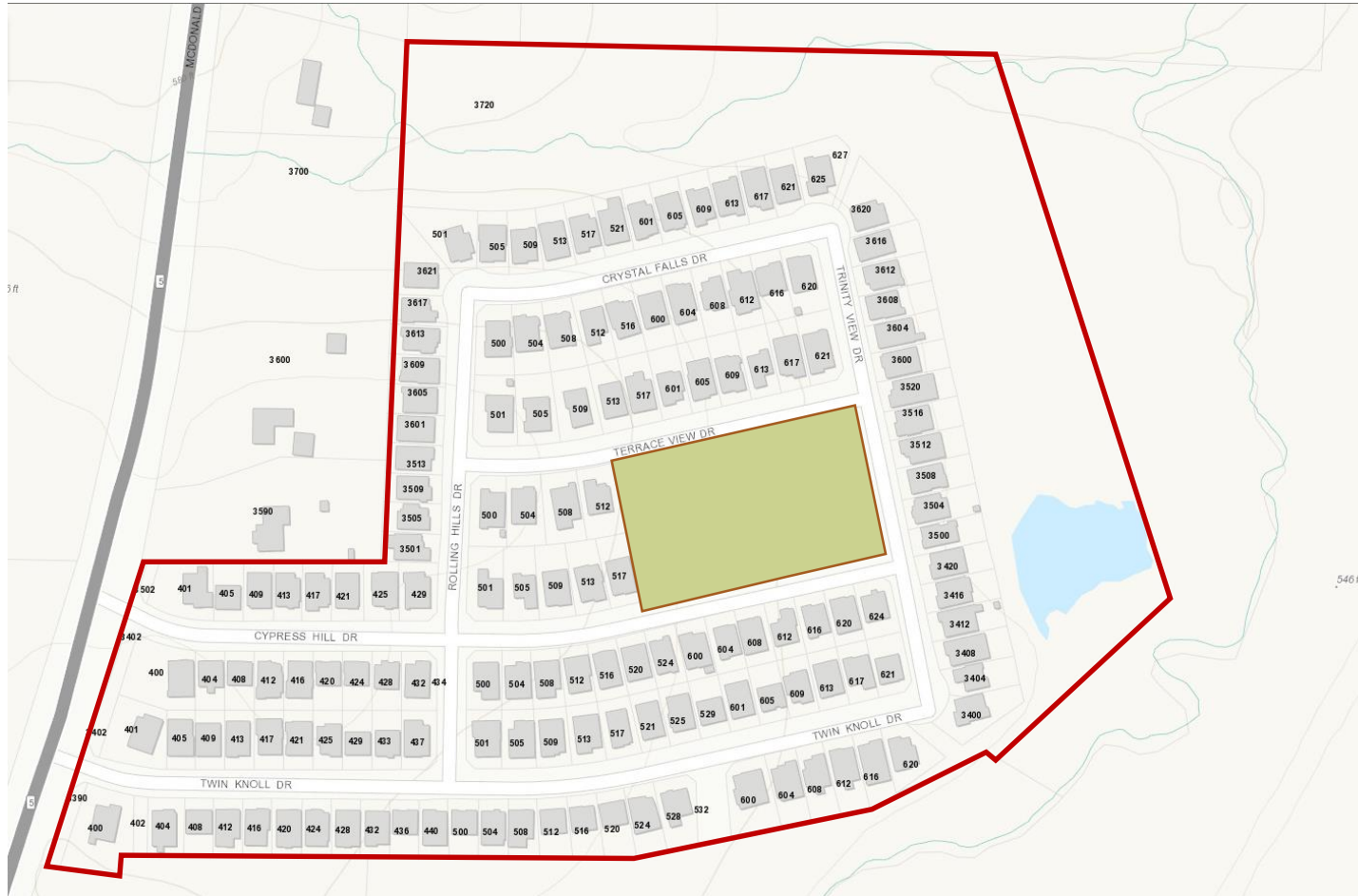




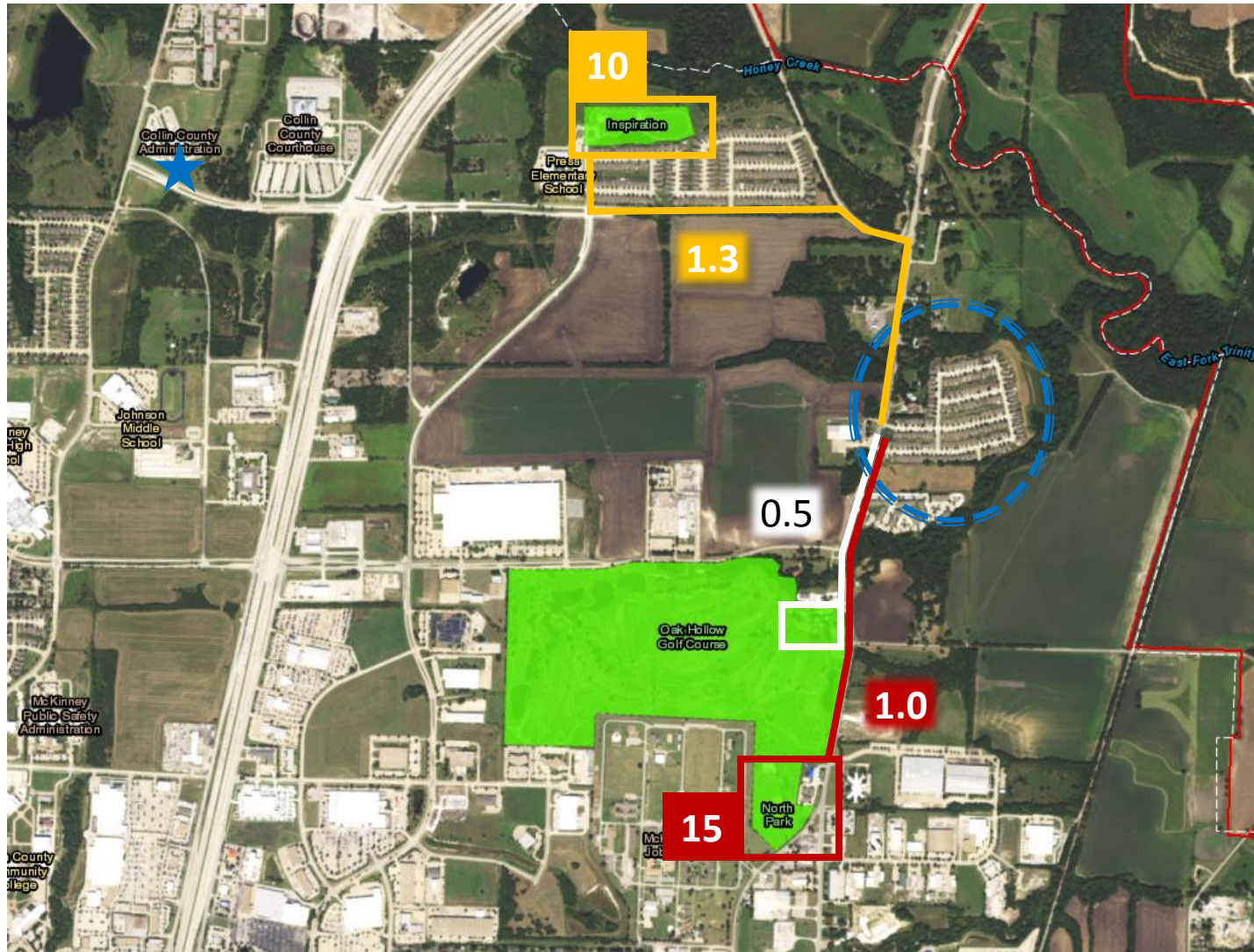


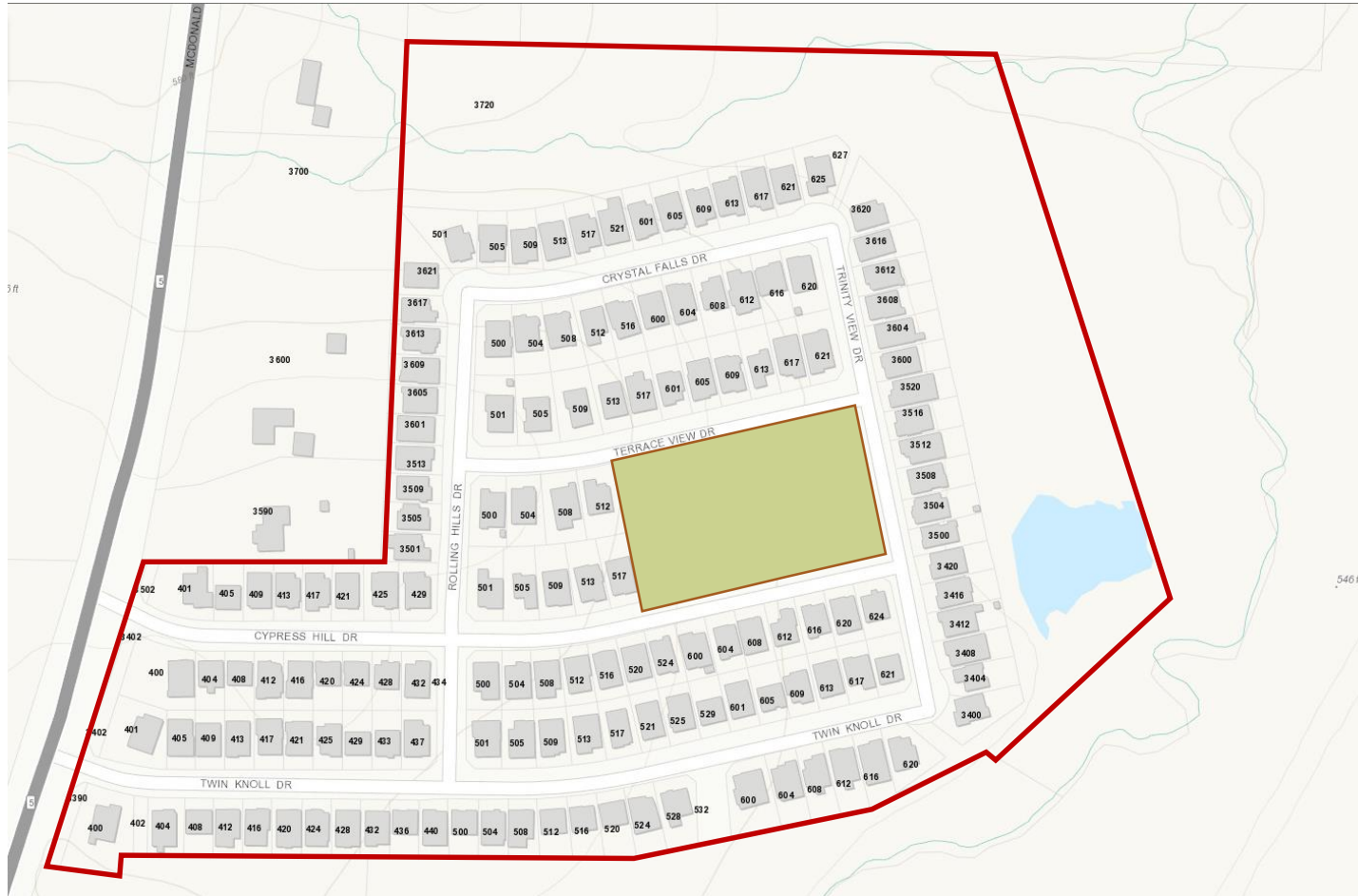


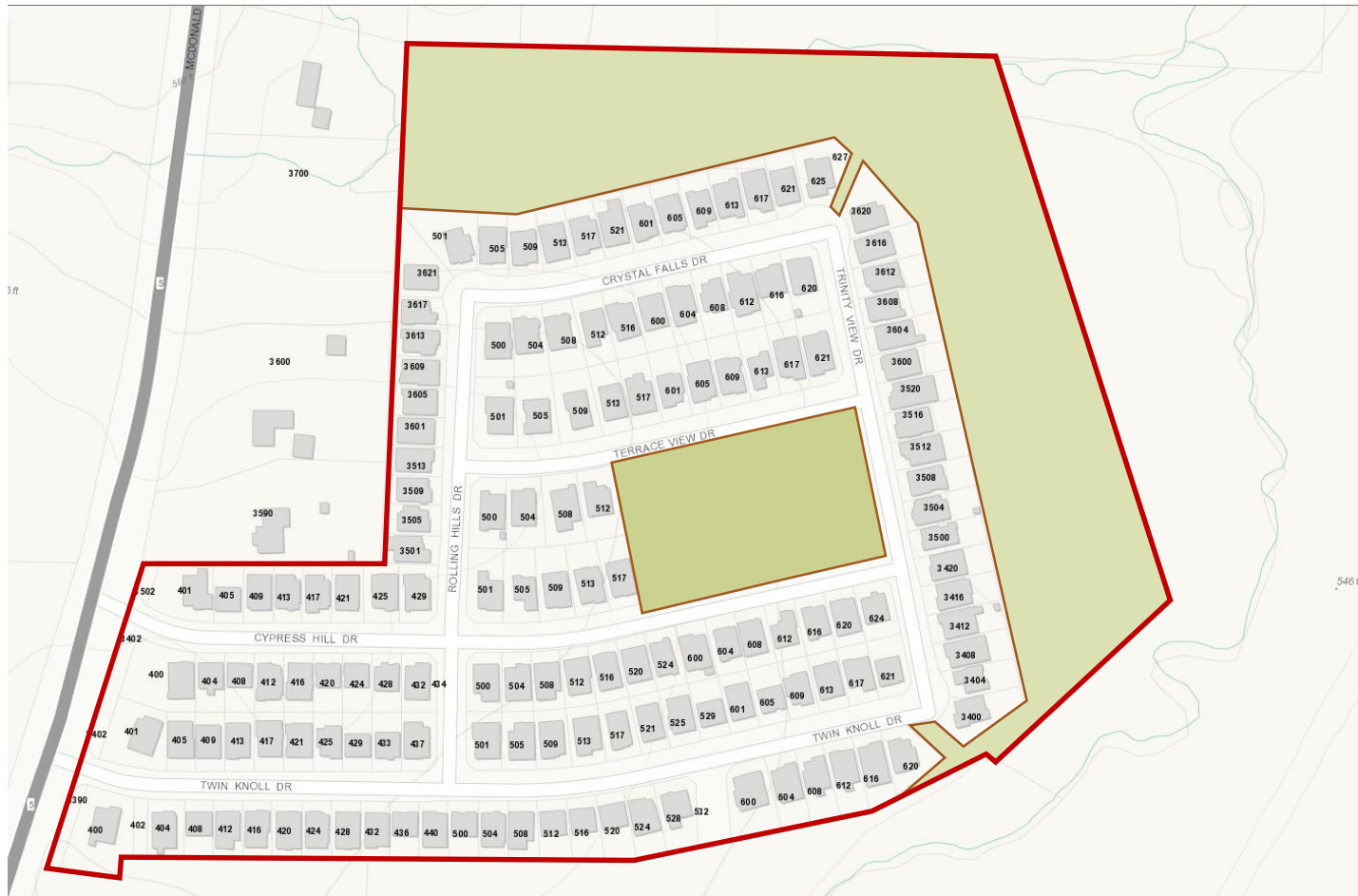




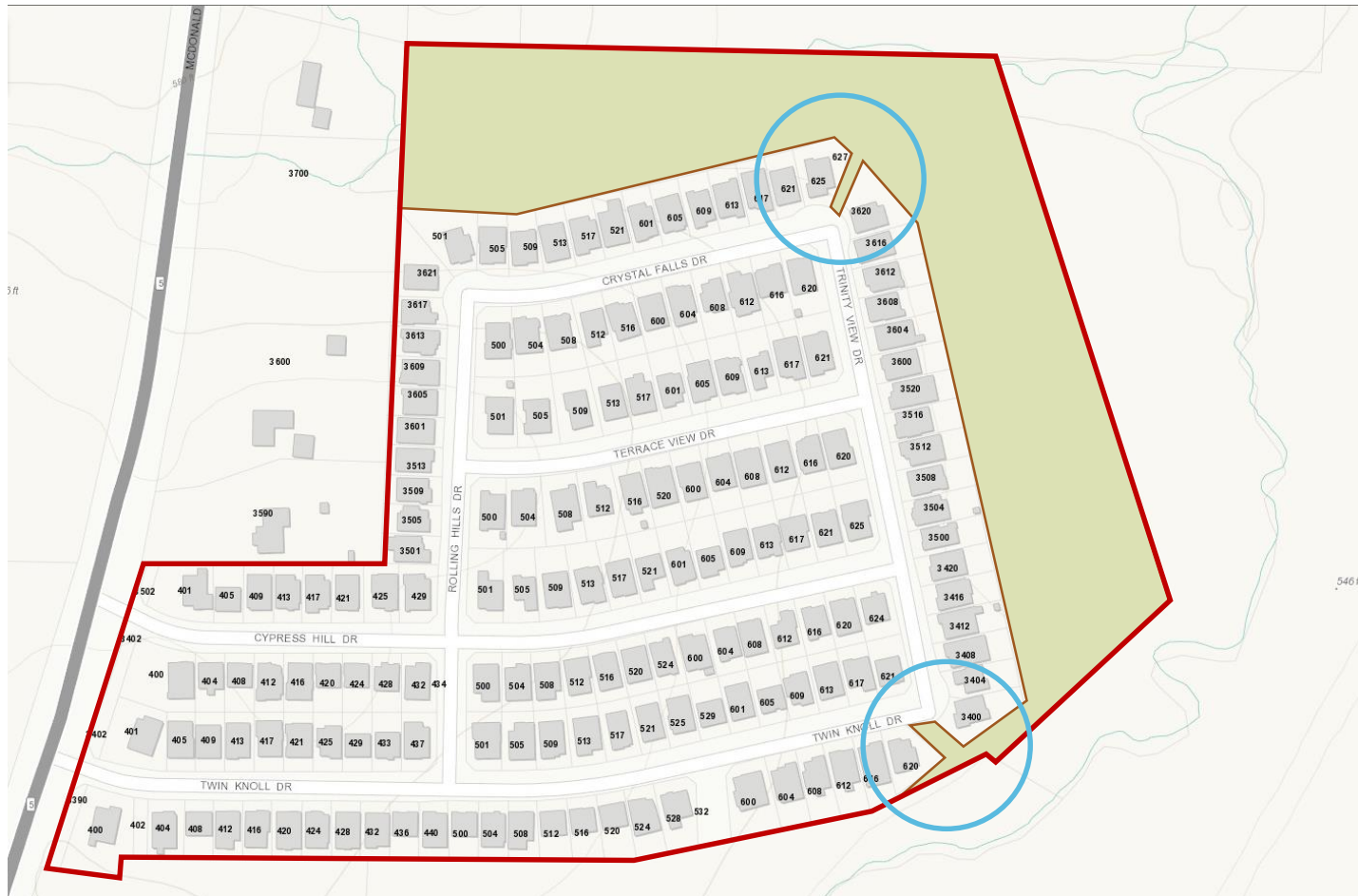


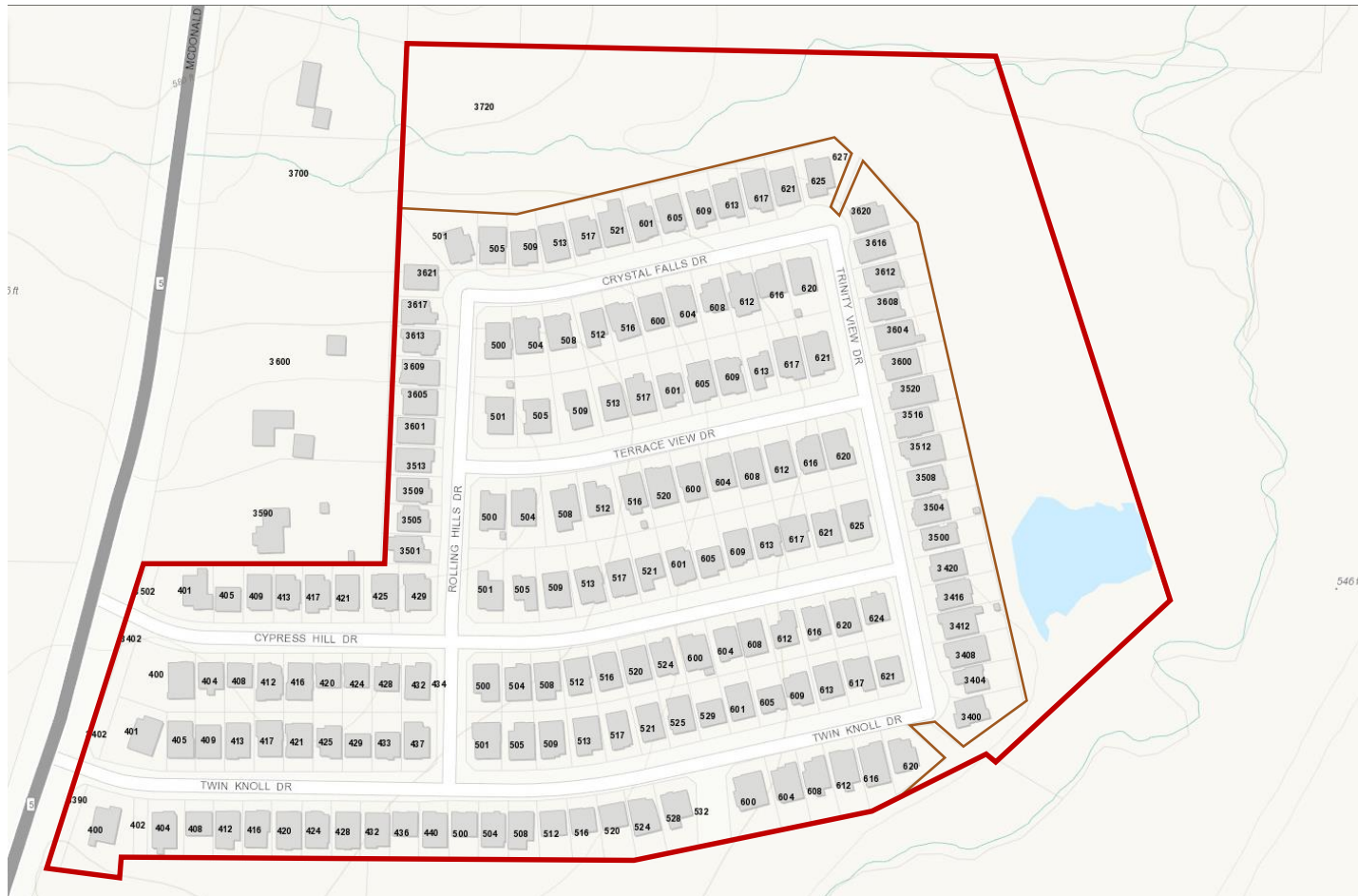


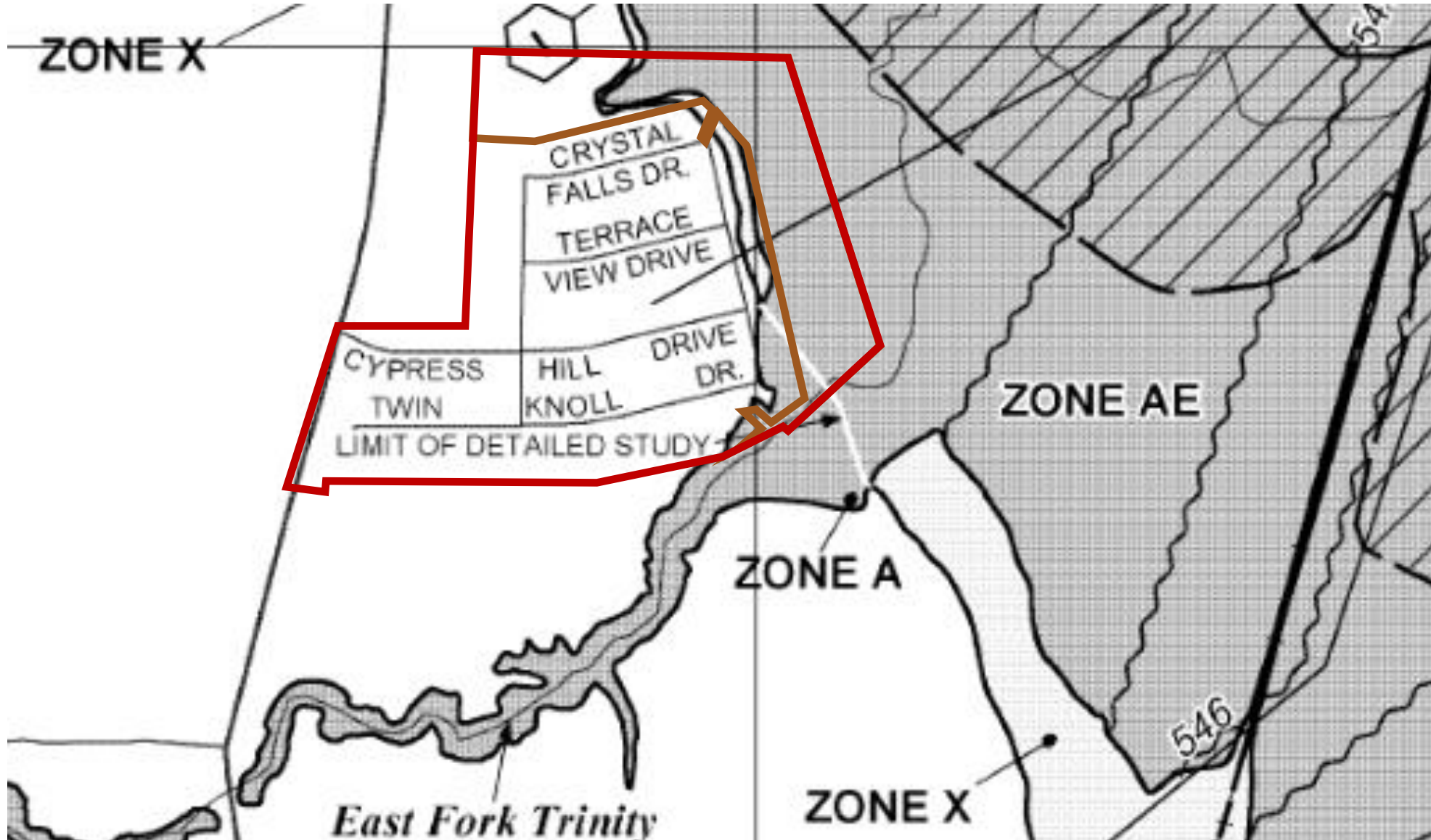




















Looking North





Looking South





Looking South



































17-808

**TITLE:** Consider and Discuss Potential Amendments to the Code of Ordinances to Address the Permitting and Platting of Single Family Residential Structures in the Extraterritorial Jurisdiction (ETJ)

**COUNCIL GOAL:** Direction for Strategic and Economic Growth

**MEETING DATE:** August 14, 2017

**DEPARTMENT:** Development Services

**CONTACT:** Michael Quint, Executive Director of Development Services

**RECOMMENDED CITY COUNCIL ACTION:**

- Consider and discuss potential amendments to the Code of Ordinances.

**ITEM SUMMARY:**

- Staff is seeking feedback from the City Council regarding draft amendments that are intended to streamline the development of single family residential structures in the extraterritorial jurisdiction (ETJ) of the City by modifying the platting and permitting requirements.
- At the April 17, 2017 City Council work session, Staff updated the City Council regarding the City's regulations requiring platting for properties in the ETJ prior to the issuance of building permits. At that meeting, the City Council directed Staff to modify the Subdivision Ordinance to create an exception from platting requirements for individual single family residential structures on property in the ETJ that is not being subdivided. It was also acknowledged that the City Council would be changing in May-July with new City Council members being elected.
- At the July 17, 2017 City Council work session, Staff presented a similar presentation to what was provided in April to the newly elected City Council seeking direction regarding what modifications, if any, to the Code of Ordinances needed to be drafted to address outstanding permitting and platting issues. No consensus was provided at that meeting.
- In light of the direction received to date, Staff has drafted a series of potential

amendments to the Code of Ordinances that would exempt single family residential structures being constructed on existing tracts of land in the ETJ that are not being subdivided from platting and permitting requirements. These draft amendments are attached for the City Council's consideration.

- Based on the City Council's feedback at this work session, Staff plans to bring amendments to the permitting regulations (122-4 of the Code of Ordinances) forward for the City Council's consideration and action at the August 15, 2017 regular City Council meeting. Amendments to the platting regulations (142-5 of the Code of Ordinances) will be brought forward to the City Council for consideration and action on September 5, 2017. The delay in bringing forward the platting modifications is a result of the 15-day legal notice requirements.

**SUPPORTING MATERIALS:**

[April 2017 Presentation](#)

[July 2017 Presentation](#)

[Potential Changes to Sec 122-4](#)

[Potential Changes to Sec 142-5](#)

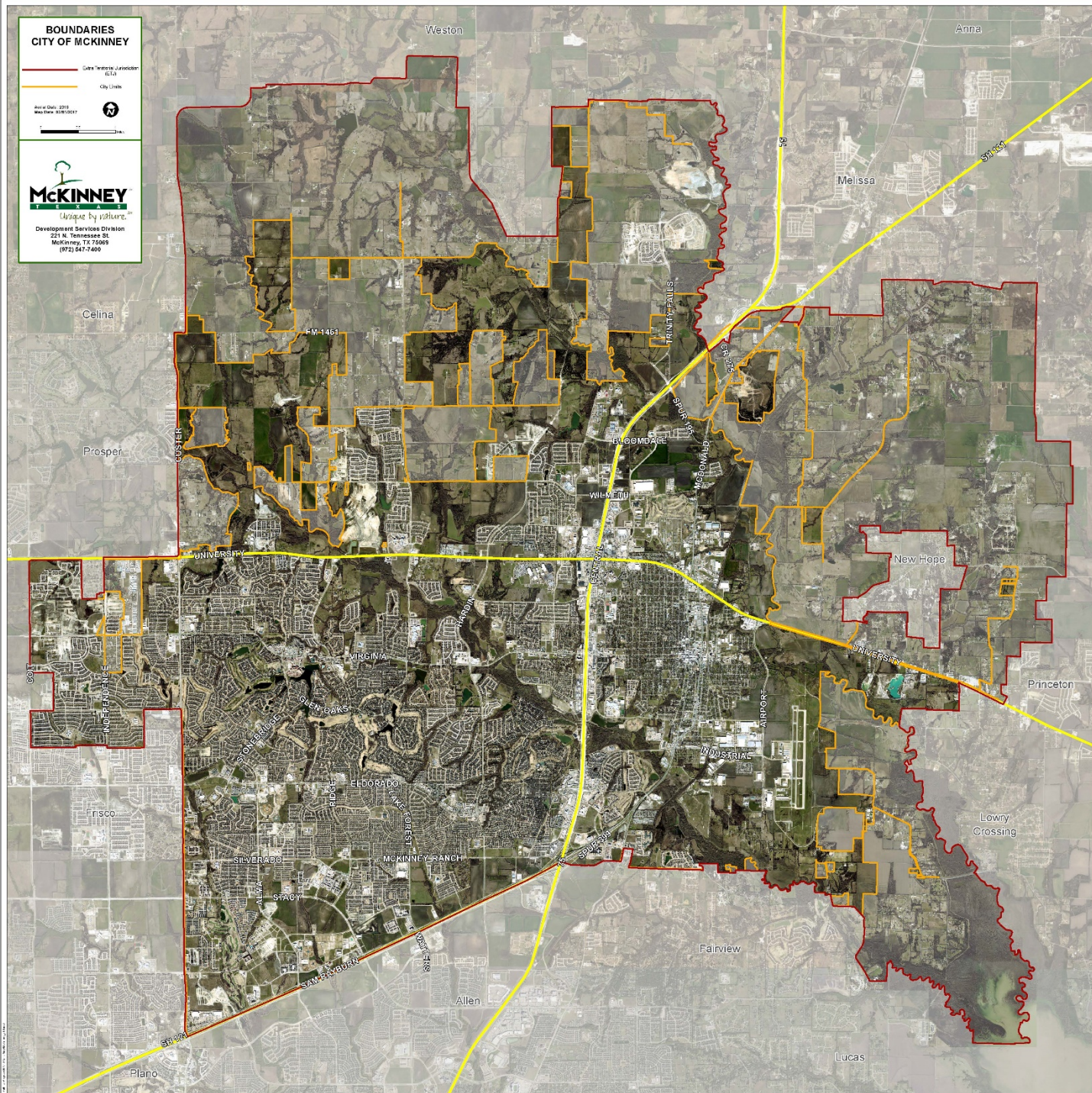
# Work Session Discussion: McKinney's Subdivision Regulations & McKinney's ETJ

Monday, April 17, 2017





**BOUNDARIES  
CITY OF MCKINNEY**





## Timeline

- **1968 (Ord. 691):** McKinney adopts Subdivision Regulations applying to the City and its Extraterritorial Jurisdiction (ETJ)
- **1982 (Ord. 1290):** McKinney updates its Subdivision Regulations to include a provision requiring platting prior to constructing streets, utilities, buildings, etc.
- **2002 (Ord. 2002-03-019):** McKinney enters into a City-County Plat Approval Agreement granting McKinney exclusive control over subdivision plats and related permits in its ETJ (also known as a “1445 Agreement”)
- **2015 (Ord. 2015-03-015):** McKinney reaffirms its authority to enforce building codes in its ETJ
- **Present Day:** McKinney is enforcing Section 142-5 of the Code of Ordinances (Subdivision Regulations) which states, as it did in 1982, that a plat is required prior to constructing streets, utilities, buildings, etc.



## Section 142-5 of the Subdivision Regulations (current)

### Sec. 142-5. - Approval required.

(a) Unless and until any plat, plan or replat shall have been first approved in the manner provided by law, it shall be unlawful for any person, firm, corporation, or organization to construct or cause to be constructed any streets, utilities, buildings or other improvements to any tract of land; and any official of the city, shall not issue any permit for such improvements or to serve or connect said land, or any part thereof, or for the use of the owners or purchasers of said land, or any part thereof, with any public utilities such as water, sewers, lights, gas, etc., which may be owned, controlled, distributed, franchised, or supplied by such city.

(b) No building permits will be issued for the construction of any building on any unplatted land within the city. Minor repair permits may be issued. When additions, alterations, or repairs within any 12-month period exceed 50 percent of the value of an existing building or structure on previously unplatted property, the land upon which such building or structure is located shall be platted in accordance with the provisions of this chapter.



## Section 1.05 of the Subdivision Regulations (1982)

1.05 Approval Required: Unless and until any plat, plan or replat shall have been first approved in the manner provided by law, it shall be unlawful for any person, firm, corporation, or organization to construct or cause to be constructed any streets, utilities, buildings or other improvements to any tract of land; and it shall be unlawful for any official of said City to issue any permit for such improvements or to serve or connect said land, or any part thereof, or for the use of the owners or purchasers of said land, or any part thereof, with any public utilities such as water, sewers, lights, gas, etc., which may be owned, controlled, distributed, franchised, or supplied by such City. No building permits will be issued for the construction of any building on any unplatted land within the City of McKinney, Minor repair permits may be issued. When additions, alteration, or repairs within any 12 month period exceed fifty percent (50%) of the value of an existing building or structure on previously unplatted property, the land upon which such building or structure is located shall be platted in accordance with provisions of this Ordinance.

# FAQs

## **Why does McKinney require platting?**

- To ensure that growth occurs in an orderly manner via the dedication of easements for utilities and right-of-way (ROW) for streets. This orderly growth is aimed at promoting the health safety, morals, or general welfare of the public.
- To subdivide property, to consolidate properties, to create platted lots of record, and to dedicate easements and ROW.

## **Where does McKinney derive its authority to require platting?**

- Chapter 212 of the Texas Local Government Code authorizes municipalities to adopt rules governing plats and subdivisions of land in its corporate limits and its ETJ.

## **Does the “Subdivision” Ordinance apply to property that’s not being subdivided?**

- The Subdivision Ordinance (Chapter 142 of McKinney’s Code of Ordinances) applies to all properties in McKinney’s City Limits and its ETJ. The Subdivision Ordinance contains requirements applying to more than just the subdivision of land.

## **What are the options available to property owners in McKinney and its ETJ if they’re required to plat but do not want to dedicate right-of-way or easements or construct public improvements?**

- Plat the property in accordance with McKinney’s Subdivision Ordinance but request the City Council’s approval of variances to not dedicate all necessary ROW and easements or construct required public improvements.
- Plat the ETJ property in accordance with McKinney’s Subdivision Ordinance and enter into a development agreement with the City (ETJ only). This agreement could temporarily suspend the Subdivision Ordinance’s requirements to dedicate ROW and easements or construct public improvements so long as the property is used for an agreed upon use.
- Do not plat the property in accordance with McKinney’s Subdivision Ordinance and thereby elect not to develop the project.

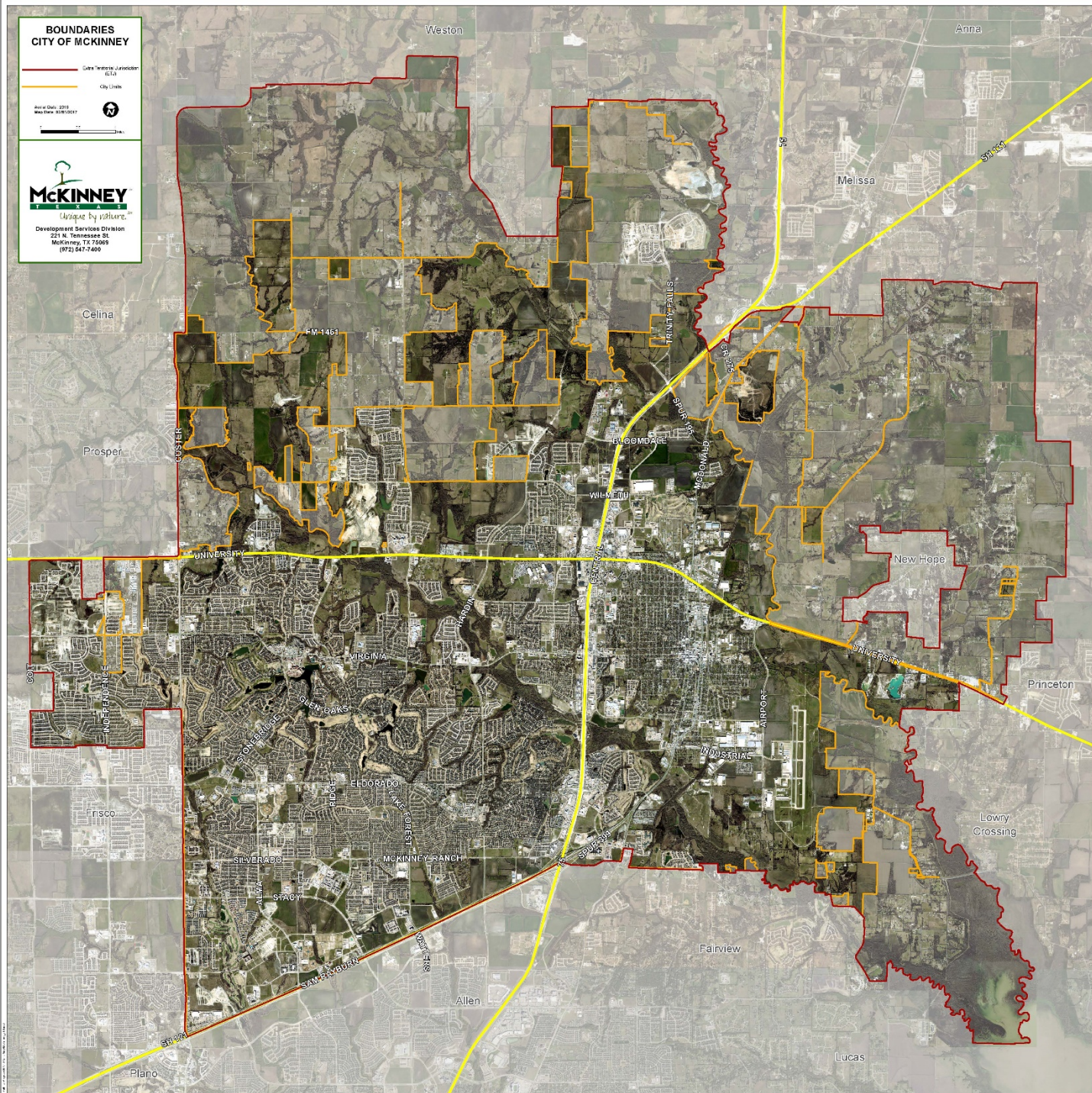
# Subdivision Regulations & Permitting in McKinney's ETJ

July 17, 2017 City Council Work Session





**BOUNDARIES  
CITY OF MCKINNEY**





## Background Timeline

- **1968 (Ord. 691):** McKinney adopts Subdivision Regulations applying to the City and its Extraterritorial Jurisdiction (ETJ)\*.
- **1982 (Ord. 1290):** McKinney updates its Subdivision Regulations to include a provision requiring platting prior to constructing streets, utilities, buildings, etc.
- **March 2002 (Res. 2002-03-060(R)):** McKinney enters into a City-County Plat Approval Agreement granting McKinney exclusive control over subdivision plats and related permits in its ETJ (also known as a “1445 Agreement”).
- **March 2015 (Ord. 2015-03-015):** McKinney reaffirms its authority to enforce building codes in its ETJ.
- **Present Day:** McKinney is enforcing Section 142-5 of the Code of Ordinances (Subdivision Regulations) which states, as it did in 1982, that a plat is required prior to constructing streets, utilities, buildings, etc. McKinney also requires building permits in its ETJ prior to construction.

*\*In the ETJ, the City has no land use control or zoning authority but can make plans for the ultimate development in the area through master plans and the City's Comprehensive Plan.*



## Section 1.05 of the Subdivision Regulations (1982)

1.05 Approval Required: Unless and until any plat, plan or replat shall have been first approved in the manner provided by law, it shall be unlawful for any person, firm, corporation, or organization to construct or cause to be constructed any streets, utilities, buildings or other improvements to any tract of land; and it shall be unlawful for any official of said City to issue any permit for such improvements or to serve or connect said land, or any part thereof, or for the use of the owners or purchasers of said land, or any part thereof, with any public utilities such as water, sewers, lights, gas, etc., which may be owned, controlled, distributed, franchised, or supplied by such City. No building permits will be issued for the construction of any building on any unplatted land within the City of McKinney, Minor repair permits may be issued. When additions, alteration, or repairs within any 12 month period exceed fifty percent (50%) of the value of an existing building or structure on previously unplatted property, the land upon which such building or structure is located shall be platted in accordance with provisions of this Ordinance.



## Section 142-5 of the Subdivision Regulations (current)

### Sec. 142-5. - Approval required.

(a) Unless and until any plat, plan or replat shall have been first approved in the manner provided by law, it shall be unlawful for any person, firm, corporation, or organization to construct or cause to be constructed any streets, utilities, buildings or other improvements to any tract of land; and any official of the city, shall not issue any permit for such improvements or to serve or connect said land, or any part thereof, or for the use of the owners or purchasers of said land, or any part thereof, with any public utilities such as water, sewers, lights, gas, etc., which may be owned, controlled, distributed, franchised, or supplied by such city.

(b) No building permits will be issued for the construction of any building on any unplatted land within the city. Minor repair permits may be issued. When additions, alterations, or repairs within any 12-month period exceed 50 percent of the value of an existing building or structure on previously unplatted property, the land upon which such building or structure is located shall be platted in accordance with the provisions of this chapter.

## Texas House Bill No. 1445 (May 2001)\*

- House Bill 1445 amended the Local Government Code (LGC) to prohibit a plat from being filed with the county clerk without the approval of the appropriate governmental entity.
- The bill prohibited a municipality and county from regulating subdivisions in the extraterritorial jurisdiction (ETJ) of the municipality after an agreement is executed that identifies whether the county or the municipality is authorized to regulate **subdivision plats and approve related permits** in the ETJ. The bill required a municipality and a county by a specified time period to enter into such written agreement and adopt the agreement by order, ordinance, or resolution.
- The bill also authorized the municipality and the county to enter into an interlocal agreement (commonly referred to as a “1445 Agreement”) that established one office that is authorized to regulate plat application procedures for the ETJ and establishes a consolidated and consistent sets of regulations related to plats and subdivisions of land.
- *Neither the adopted bill nor the Texas Legislature’s analysis of the bill specifically discussed vertical construction thus there is some uncertainty as to what is meant by “...and related permits.”*
- Specifically, subsection 242.001(c) of the TX LGC states... “a municipality and a county may not both regulate **subdivisions and related permits** in the extraterritorial jurisdiction of a municipality after an agreement... is executed.”



## City-County Plat Approval Agreement (“1445 Agreement” – March 2002)

1. *City Granted Exclusive Jurisdiction.* The parties agree that City shall be granted exclusive jurisdiction to regulate all subdivision plats and approve all related permits in its ETJ in accordance with Chapter 212 of the Local Government Code, its adopted Subdivision Regulations or other applicable codes or ordinances, and County shall no longer exercise any of these functions in the City’s ETJ.
2. *One Office for Plat Applications, Fee Payments and Responses.* Pursuant to this Agreement, the City Secretary or his/her designee is authorized to accept plat applications for tracts of land located in the ETJ of the City, to collect plat application fees established by law, and provide applicants one response indicating approval or denial of the plat application by the appropriate approving authority.
3. *Consolidated Regulations.* That the Subdivision Regulations of the City are hereby established as a consolidated and consistent set of regulations related to plats and subdivisions of land as authorized by Chapters 212 and 232 of the Local Government Code, and will be enforced in the ETJ of the City.
4. *Areas Outside ETJ.* In an unincorporated area outside the ETJ of the City, the City may not regulate subdivisions or approve the filing of plats, and the County retains jurisdiction to do so. Should the City expand or reduce its ETJ, City shall promptly notify County of such expansion or reduction. City and County agree that such an expansion or reduction shall not require amendment of this Agreement, and the City shall continue to be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in its ETJ, and the County shall continue to have jurisdiction of areas outside the City’s ETJ.
5. *Costs.* All costs involved with the approval of subdivision plats under this Agreement shall be borne by the City and payable out of current revenues available to it. All fees collected by the City will be the property of the City.
6. *Periodic Review.* This Agreement may be reviewed periodically and revised to address changed circumstances. This Agreement may only be modified or amended by a subsequent Agreement in writing between the same parties.

## **City Ordinance Reaffirming Building Code Applicability in ETJ** ***(Ord. 2015-03-015 – March 2015)***

Section 2. The Code of Ordinances of the City of McKinney, Chapter 122, Article I, is hereby amended by adding new Section 122-4, entitled “Permits,” which shall read as follows:

### **“Sec. 122-4. Permits within city limits and extraterritorial jurisdiction.**

- (a) It shall be unlawful for any person to erect, move, add to, or structurally alter, or to cause to be erected, moved, added to, or structurally altered, or to permit any person to erect, move, add to, or structurally alter, any building or other structure within the city limits or within the city’s extraterritorial jurisdiction without first having procured a permit to do so from the city.
- (b) Building permits, development permits and all other construction-related permits required by this chapter are required within the city limits and on all property within the city’s extraterritorial jurisdiction.
- (c) No building permit, development permit or other construction-related permit shall be issued except in conformity with the provisions of this chapter and all applicable construction codes of the city.”

# FAQs

## Why does McKinney require platting?

- To ensure that growth occurs in an orderly manner via the dedication of easements for utilities and right-of-way (ROW) for streets. This orderly growth is aimed at promoting the health, safety, morals, or general welfare of the public.
- To subdivide property, to consolidate properties, to create platted lots of record, and to dedicate easements and ROW.

## Where does McKinney derive its authority to require platting?

- Chapter 212 of the Texas Local Government Code authorizes municipalities to adopt rules governing plats and subdivisions of land in its corporate limits and its ETJ.

## Does the “Subdivision” Ordinance apply to property that’s not being subdivided?

- The Subdivision Ordinance (Chapter 142 of McKinney’s Code of Ordinances) applies to all properties in McKinney’s City Limits and its ETJ. The Subdivision Ordinance contains requirements applying to more than just the subdivision of land.

## Why does McKinney require building permits in the ETJ?

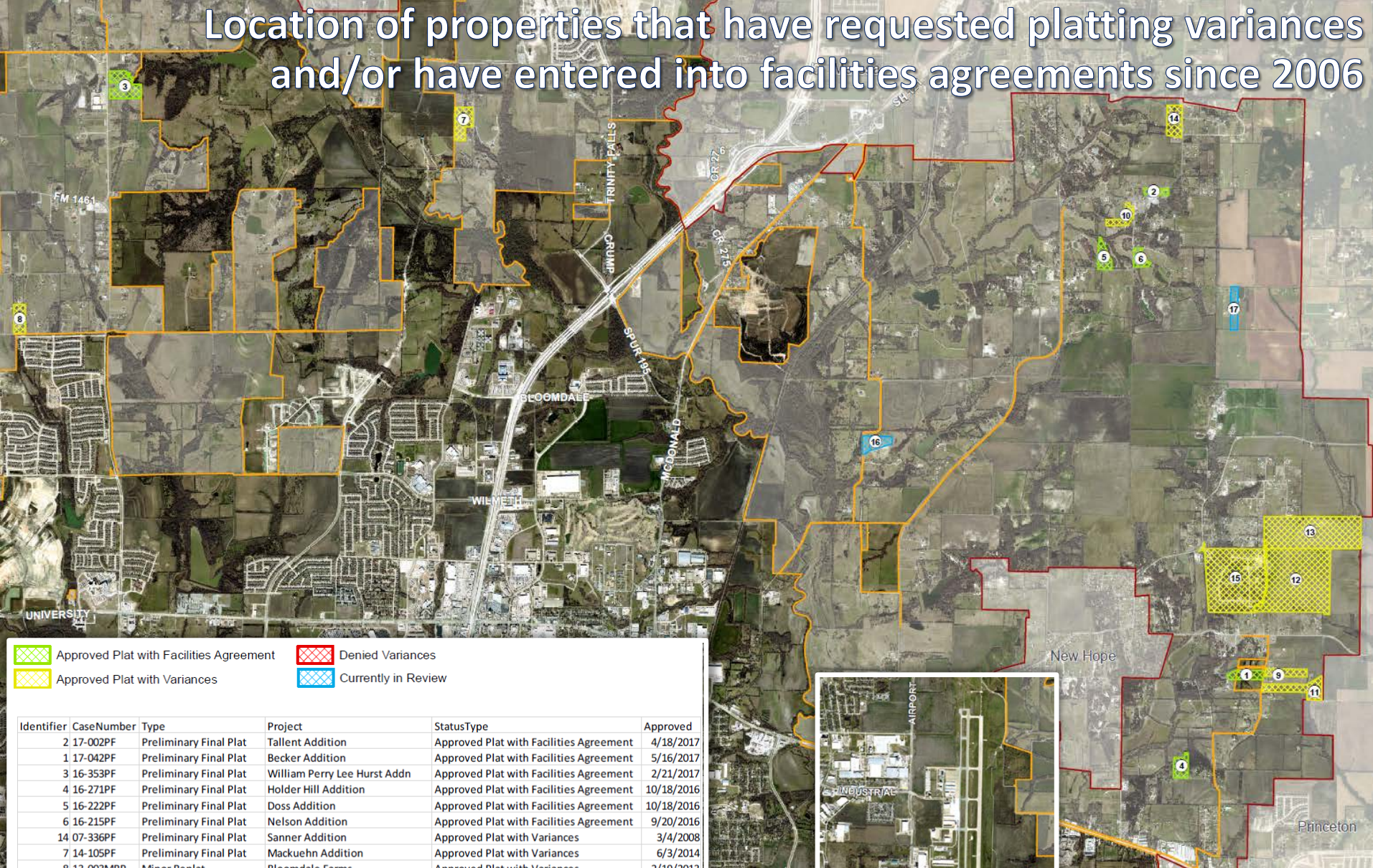
- To ensure that the construction ensures the health, safety, or general welfare of the public.
- To ensure that McKinney’s first responders are safe when entering these structures.
- To ensure that when these structures are eventually annexed and incorporated into McKinney’s corporate limits, they’re safe.

## What are the options available to property owners in McKinney and its ETJ if they’re required to plat but do not want to dedicate right-of-way or easements or construct public improvements?

- Plat the property in accordance with McKinney’s Subdivision Ordinance but request the City Council’s approval of variances to not dedicate all necessary ROW and easements or construct required public improvements.
- Plat the ETJ property in accordance with McKinney’s Subdivision Ordinance and enter into a development agreement with the City (ETJ only). This agreement could temporarily suspend the Subdivision Ordinance’s requirements to dedicate ROW and easements or construct public improvements so long as the property is used for an agreed upon use.
- Do not plat the property in accordance with McKinney’s Subdivision Ordinance and thereby elect not to develop the project.



# Location of properties that have requested platting variances and/or have entered into facilities agreements since 2006



**2006 - 2017  
ETJ Plat List**

— Extra Territorial Jurisdiction (ETJ)  
— City Limits

Aerial Date: 2016  
Map Date: 6/28/2017



Identifier	CaseNumber	Type	Project	StatusType	Approved
	2 17-002PF	Preliminary Final Plat	Tallent Addition	Approved Plat with Facilities Agreement	4/18/2017
	1 17-042PF	Preliminary Final Plat	Becker Addition	Approved Plat with Facilities Agreement	5/16/2017
	3 16-353PF	Preliminary Final Plat	William Perry Lee Hurst Addn	Approved Plat with Facilities Agreement	2/21/2017
	4 16-271PF	Preliminary Final Plat	Holder Hill Addition	Approved Plat with Facilities Agreement	10/18/2016
	5 16-222PF	Preliminary Final Plat	Doss Addition	Approved Plat with Facilities Agreement	10/18/2016
	6 16-215PF	Preliminary Final Plat	Nelson Addition	Approved Plat with Facilities Agreement	9/20/2016
	14 07-336PF	Preliminary Final Plat	Sanner Addition	Approved Plat with Variances	3/4/2008
	7 14-105PF	Preliminary Final Plat	Mackuehn Addition	Approved Plat with Variances	6/3/2014
	8 13-003MRP	Minor Replat	Bloomdale Farms	Approved Plat with Variances	2/19/2013
	9 12-069PF	Preliminary Final Plat	Almosta Ranch Addition	Approved Plat with Variances	5/12/2012
	10 12-006PF	Preliminary Final Plat	Herb and Melba Parker Addition	Approved Plat with Variances	2/7/2012
	11 09-106PF	Preliminary Final Plat	Free Rein #1 Addition	Approved Plat with Variances	11/17/2009
	12 08-178PFR	Preliminary Final Replat	McKinney 141 Addition	Approved Plat with Variances	8/5/2008
	13 08-042PF	Preliminary Final Plat	Grissom Addition	Approved Plat with Variances	3/4/2008
	15 06-520PF	Preliminary Final Plat	Creekview Landing	Approved Plat with Variances	3/6/2007
	17 17-139PF	Preliminary Final Plat	George Addition	Currently in Review	
	16 17-177PF	Preliminary Final Plat	Swim Addition	Currently in Review	
	18 13-269PF	Preliminary Final Plat	Three Oaks	Denied Variances	



# Options for a path forward:

## 1. Amend the Building Codes:

- a. To create an exception from permitting for certain types of construction (ex.: structures with no utilities or structures not intended for habitation/occupancy); **OR**
- b. To not apply City building codes to the ETJ; **OR**
- c. To not perform building inspections in the ETJ.

## 2. Amend the Subdivision Ordinance:

- a. To create an exception from platting for individual properties in the ETJ that are of a certain size (greater than \_\_\_\_ acres), and (i) which will not be divided into two or more parcels and (ii) on which one single family home is to be constructed (recommended by the City Council in April of 2017); **AND/OR**
- b. To only require platting in the ETJ if new or alterations to existing water service is requested; **AND/OR**
- c. To not require platting prior to building permitting in the ETJ.

## 3. Amend both sets of regulations.

## 4. Do not change anything.

## Direction Requested:

*How would the City Council like to proceed with platting and building permitting in McKinney's ETJ?*





Sec. 122-4. - Permits within city limits and extraterritorial jurisdiction.

- ~~(a)~~ ~~(a)~~ — It shall be unlawful for any person to erect, move, add to, or structurally alter, or to cause to be erected, moved, added to, or structurally altered, or to permit any person to erect, move, add to, or structurally alter, any building or other structure within the city limits or within the city's extraterritorial jurisdiction without first having procured a permit to do so from the city, except as provided in (b) below.
- (b) From and after August 15, 2017, permits otherwise required by (a) above shall not be required prior to the constructing, repair, renovating -or remodeling of one (1) existing or new single family residential dwelling unit, private utility service lines, or any accessory residential structures, such as a barn, residential storage shed, arbor, gazebo, or swimming pool on a single, undivided tract of land in the ETJ that is not being conveyed or created from a larger tract and that is not a platted lot of record.
- ~~(c)~~ Building permits, development permits and all other construction-related permits required by this chapter are required within the city limits and on all property within the city's extraterritorial jurisdiction, except as provided in (b) above.
- ~~(d)~~ No building permit, development permit or other construction-related permit shall be issued except in conformity with the provisions of this chapter and all applicable construction codes of the city, except as provided in (b) above.

(Ord. No. 2015-03-015, § 2, 3-17-2015)

Sec. 142-5. - Approval required.

~~(a)~~ ~~(a)~~—Unless and until any plat, plan or replat shall have been first approved in the manner provided by law, it shall be unlawful for any person, firm, corporation, or organization to construct or cause to be constructed any streets, utilities, buildings or other improvements to any tract of land, except as provided in (b) below; and any official of the city, shall not issue any permit for such improvements or to serve or connect said land, or any part thereof, or for the use of the owners or purchasers of said land, or any part thereof, with any public utilities such as water, sewers, lights, gas, etc., which may be owned, controlled, distributed, franchised, or supplied by such city, except as provided in (b) below.

~~(a)~~ ~~(b)~~ From and after September 5, 2017, a plat, plan or replat otherwise required by (a) above shall not be required prior to the constructing, repair, renovating or remodeling of one (1) existing or new single family residential dwelling unit, private utility service lines, or any accessory residential structures, such as a barn, residential storage shed, arbor, gazebo, or swimming pool on a single, undivided tract of land in the ETJ that is not being conveyed or created from a larger tract.

~~(c)~~ ~~(b)~~ No building permits will be issued for the construction of any building on any unplatted land within the city. Minor repair permits may be issued. When additions, alterations, or repairs within any 12-month period exceed 50 percent of the value of an existing building or structure on previously unplatted property, the land upon which such building or structure is located shall be platted in accordance with the provisions of this chapter.

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(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2012-11-056, § 2, 11-5-2012; Ord. No. 2013-04-033, § 3, 4-2-2013; Ord. No. 2013-06-054, § 1, 6-4-2013)



17-809

**TITLE:** Consider and Discuss Potential Amendments to the City's Food Truck Requirements

**COUNCIL GOAL:** Enhance the Quality of Life in McKinney

**MEETING DATE:** August 14, 2017

**DEPARTMENT:** Development Services

**CONTACT:** Michael Quint, Executive Director of Development Services

**RECOMMENDED CITY COUNCIL ACTION:**

- Consider and discuss whether or not the regulations governing food trucks should be modified.

**ITEM SUMMARY:**

- Staff is seeking direction from the City Council regarding whether or not the City's regulations governing food trucks should be modified.
- The City's current regulations governing food trucks on private property were adopted in February of 2015. Councilwoman Rath and Mayor Fuller have asked that the existing regulations be revisited.
- The food truck industry began to grow rapidly during the recession when traditional "brick and mortar" restaurants were struggling and after food truck courts in cities throughout the country gained popularity. In fact, some reports show this industry grew approximately 12% annually between 2009 and 2014.
- The food truck boom made its way to McKinney in the 2012-2014 timeframe but regulations in place at the time were prohibitive.
- In February of 2015, the City Council approved ordinance number 2015-02-006 which established regulations allowing food trucks as a temporary use.
- These regulations represented an iterative, cautious step into new market for McKinney. At the time, the regulations were regarded as a "baby step" knowing



that the regulations would eventually need to be modified to address new trends in the industry and intended/unintended consequences of the adopted regulations.

- Some of the feedback regarding current regulations:
  - The separation requirement between food trucks and residential uses is too large.
    - Current requirement: “Food trucks shall not be allowed to engage in sales operations within 300’ of any residential zoning district or any property used for residential purposes.”
  - The requirement for the food truck to leave the permitted food truck site every day is too prohibitive.
    - Current requirement: “Food trucks shall not be located or stored at the operation site between the hours of 11 pm and 7 am.”
  - The minimum distance required between food truck sites is too large.
    - Current requirement: “Food trucks shall not be allowed to engage in sales operations within 1,000’ of one another.”

#### **SUPPORTING MATERIALS:**

[Existing Food Truck Regulations Presentation](#)

**ORDINANCE NO. 2015-02-006**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING SECTION 146-42 (TEMPORARY USES) OF THE ZONING REGULATIONS PERTAINING TO FOOD TRUCKS AND TEMPORARY FOOD SALES; ESTABLISHING PRESUMPTIONS; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF**

**WHEREAS**, the City of McKinney adopted the Code of Ordinances for the protection of the public health and general welfare of the people of the City of McKinney; and

**WHEREAS**, the City Council and the Planning and Zoning Commission have recognized that certain provisions of the Code of Ordinances should be reviewed and updated; and

**WHEREAS**, amendments to these provisions have been proposed and the City Council and the Planning and Zoning Commission of the City of McKinney are of the opinion that these chapters should be amended.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:**

Section 1. That the Code of Ordinances, City of McKinney, Texas, Section 146-42 of the Code of Ordinances, is hereby amended and shall read as follows:

**“Sec. 146-42. Temporary uses.**

The following temporary uses may be allowed under the conditions and for the time specified upon proper application and review by the chief building official:

- (1) A temporary building may be used as an office incidental to construction work if such building is located upon the same property as the site under construction, does not contain living quarters, and provides only for uses incidental to construction on the premises. Such buildings shall be removed within 30 days following final acceptance of the construction by the city.
- (2) A temporary facility or a permanent residential structure located on any platted lot in an approved residential subdivision may be used as a construction office, or as a sales office, or for display purposes. No more than one office and no more than four display facilities shall be allowed for any purposes for any subdivision. Such temporary use shall be allowed for a period of one year, with extensions upon application and approval of six months possible, provided construction remains continuous and no more than ten lots remain unsold in the subdivision. However, in no case shall more than four such extensions be granted.
- (3) Temporary uses of a religious or philanthropic nature by those organizations not normally conducting business for profit may be allowed for the period of their actual duration up to a maximum of 30 days, except that two extensions of up to 30 days may be possible upon application and approval.
- (4) Temporary sales of seasonal products such as shaved ice or snow cones, firewood, cut trees, plants, fruits and vegetables, and the like may be allowed during their normal and generally accepted season for a period of up to 30 days, except that two extensions of up to 30 days may be possible upon application and approval. Temporary sales of seasonal products may be allowed no more than 120 days, whether consecutive or cumulative, per site.
- (5) Food Trucks. Food trucks shall be subject to the following criteria:

a. Definitions.

- i. *Food Truck* means an operational motor vehicle and/or trailer from which food and associated non-alcoholic beverages which are not typically tied to a single season of the year, are prepared, served and sold on private property for a period of time which exceeds 60 minutes or two instances of 30 minutes each day. This definition shall also apply to any seating, garbage and/or recycling containers, gear or equipment that is associated with the food truck's operation.
- ii. *Operation site* means the geographic area within which the food truck will park, prepare, and sell food and/or associated non-alcoholic beverages. This also includes areas where the food truck's customers go to consume food and/or non-alcoholic beverages sold from the food truck. The sale of merchandise other than food and non-alcoholic beverages shall not be permitted.

b. Permits and inspections required.

- i. *Food truck temporary site permit.* The owner or the authorized owner's representative of a property containing a site where a food truck will be located must apply for a temporary site permit from the Building Inspections Department prior to allowing a food truck to operate on their property. The permit application, which shall be verified in the same manner as required for a deed, shall include information that details where the food truck will be located on the property along with the location of any refuse receptacle(s), restroom(s), vehicle parking, dining area(s), and any other pertinent information regarding the operation of the food truck on the property. As part of the permit application, any necessary authorization letters from adjacent property owners and businesses shall be provided. Authorization letters that limit the allowance of food trucks to a specific type or style of food will not be accepted. Any additional information as may be deemed necessary by the Chief Building Official to thoroughly review the request shall also be submitted as part of the permit application. A food truck temporary site permit issued by the Building Inspections Department shall only remain valid for a maximum of six months and shall expire on June 30 or December 31 of every calendar year, whichever date occurs first following the issuance of such permit. A food truck temporary site permit may accommodate any licensed food truck vendor that the property owner/temporary site permit holder deems acceptable.
- ii. *Food truck vendor permit.* All food trucks shall be required to register and obtain all applicable permits from the Environmental Health Department prior to operation.
- iii. *Other permits.* Food trucks shall be responsible for identifying and obtaining all applicable permits and shall be responsible for conforming to all applicable city, county, state and federal regulations. Property owners shall be responsible for ensuring that any food truck which operates on their property obtains all necessary permits prior to operation and conforms to all applicable city, county, state and federal regulations.
- iv. *Inspections.* Food trucks and their operation sites (defined herein below) may be inspected from time to time by appropriate City personnel. Food trucks and operation sites shall immediately be made available for inspection upon request of such City personnel.



c. Property owner authorization. Owners of a property on which a food truck will operate shall provide written assurance to the Building Inspections Department that:

- i. Restrooms for each sex, or a gender neutral restroom(s), located within a permanent building that has been issued a valid certificate of occupancy shall be provided for the use of the food truck's customers, operators and employees. Such restroom(s) must remain open and available for use at all times during which the food truck is situated on the operation site. No portable or temporary restrooms shall be allowed; and
- ii. Refuse and/or recycling receptacles appropriately sized to accept refuse from the food truck operation and its customers shall be provided and remain available for use at all times during which the food truck is situated on the operation site. Such refuse and/or recycling receptacles shall be properly maintained and routinely emptied for the food truck operation.

d. Acceptable locations for food trucks ("operation sites").

- i. Subsequent to all permits being issued, food trucks may operate within any non-residential zoning district assuming all other locational criteria contained herein are also satisfied.
- ii. Food trucks and their customers shall be prohibited from utilizing the public rights-of-ways for food sales and/or consumption.
- iii. Food trucks shall only be permitted to sell food on private property, except as outlined in section 146-42(5)(j). Said property must feature an area of sufficient size that is finished with a concrete or asphaltic surface material on which the food truck may temporarily park (referred to as the operation site). No food truck shall be permitted on property that does not have a valid food truck temporary site permit.
- iv. All portions of a food truck and its associated operation site shall be located within 150 feet, as determined by the Fire Marshal, of a dedicated fire lane easement or a public street.
- v. Food trucks must be parked, situated and operated in a manner that does not restrict orderly and/or safe vehicular and/or pedestrian movements.
- vi. Food trucks may not occupy off-street parking or loading spaces that are otherwise required to satisfy minimum off-street parking or loading requirements of another land use which is also located on the same property as the food truck.
- vii. *Minimum distances.*
  1. No food truck operations including, but not limited to food preparation, sales or consumption shall be permitted within 300 feet of any door, window or outdoor dining area of any existing restaurant(s) or food service establishment(s). Food trucks shall be exempted from this requirement with the express written permission of the restaurants' or food service establishments' owner or authorized representative.
  2. Food trucks shall not be allowed to engage in sales operations within 1,000 feet of one another. Only one food

truck shall be permitted on each lot or property that is smaller than five acres in size.

3. Lots or properties that are five acres in size or larger may have two food trucks for every five acres of land area, which food trucks may be located within 1,000 feet of one another, with the maximum allowable number of food trucks on a particular lot or property being limited to no more than six food trucks.
  4. Food trucks shall not be allowed to engage in sales operations within 300 feet of any residential zoning district or any property used for residential purposes.
  5. Food trucks shall not engage in sales within 20 feet of a public right-of-way.
- e. Hours of operation. Food trucks shall only be allowed to engage in sales operations between the hours of 8:00 am and 10 pm. Food trucks shall not be located or stored at the operation site between the hours of 11 pm and 7 am.
- f. Off-street vehicle parking. One off-street vehicle parking space shall be required for each table that is provided for use by food truck customers. If no tables are provided, no off-street vehicle parking shall be required.
- g. Signage. All signage pertaining to or advertising a food truck and/or its menu shall be attached to the food truck. No other signage shall be allowed for the promotion or advertisement of a food truck or operation site. There shall be no limit to the amount of signage that is allowed on a food truck. Signage containing profanity or lewd or obscene images shall be prohibited.
- h. Refuse, recycling, litter and food preparation byproducts.
- i. Food truck operators shall provide, on or within 20 feet of the food truck, containers of sufficient size and number for the disposal of refuse and recyclables resulting from the food truck's operation and sales. The containers shall be identified as being for the disposal of refuse and/or recyclables.
  - ii. City-provided refuse and recycling containers shall not be used for the food truck's refuse and/or recycling needs unless written authorization has been provided by the City.
  - iii. Any refuse, recycling and/or litter on the ground at the operation site shall be immediately picked up and discarded appropriately by the food truck operator. Refuse and/or recycling must be removed from the operation site at least daily or more frequently as needed to remove excess refuse and/or recycling from the operation site.
  - iv. Greases, oils, vapors and other similar food preparation byproducts shall be kept inside the food truck at all times. Dumping, or the improper disposal, of food preparation byproducts into a storm water collection system or other system not designed for that specific use is strictly prohibited and may result in the immediate revocation of all permits and licenses in addition to any necessary remediation and the issuance of citations and fines.
  - v. Sewage, liquid wastes and food preparation byproducts shall be removed from a food truck at an approved waste servicing area in such a way that a public health hazard or nuisance is not created.

- i. Safety. The Chief Building Official, Fire Marshal and/or the Environmental Health Manager shall have the authority to require that additional safety measures be provided at an operational site to ensure the health, safety, and welfare of the general public. These additional safety measures may include, but are not limited to, limitations governing the provision of utilities (water, wastewater, electricity, gas, etc.) to the food truck, providing fire extinguisher(s), and adding limitations to the use of deep fat fryers or flat top grills in specific instances.
  - j. Exceptions. These regulations shall not apply to food trucks that operate:
    - i. At a special event that is properly licensed pursuant to a special event permit issued by the City, provided that the food truck is identified in the special event permit application as a participating concessionaire or caterer; or
    - ii. As a vendor at a properly permitted farmers' market for which the food truck has rented space from the farmers' market and/or its organizer(s); or
    - iii. On public property including, but not limited to a public park, public library, recreation or aquatics center, or performing art center at the request of and with the express written permission of the property owner.
- (6) The chief building official, in approving or denying such application shall consider the nature of the use; existing uses in surrounding areas; noise, dust, light, and traffic generated; health and sanitary conditions; and compliance with other regulations of this chapter. The chief building official shall have the right, upon finding that a hazard or nuisance shall exist by continuing such use, to revoke any temporary use at any time or to deny any extension. After which, such temporary use shall immediately cease and all temporary structures shall be removed within ten days of notification of such finding."

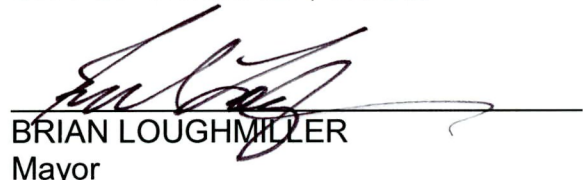
Section 2. If any section, subsection, paragraph, sentence, phrase or clause of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and to this end, the provisions of this Ordinance are declared to be severable.

Section 3. That this Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

Section 4. This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THIS 3<sup>RD</sup> DAY OF FEBRUARY, 2015.**

CITY OF MCKINNEY, TEXAS

  
BRIAN LOUGHMILLER  
Mayor



CORRECTLY ENROLLED:



SANDY HART, TRMC, MMC

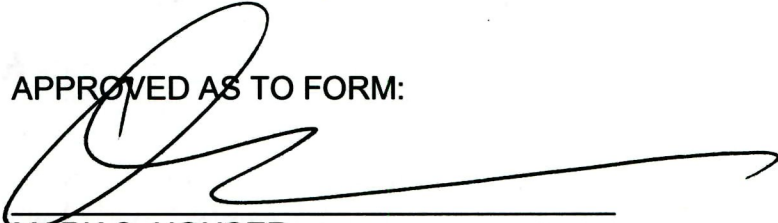
City Secretary

DENISE VICE, TRMC

Assistant City Secretary

DATE: February 3, 2015

APPROVED AS TO FORM:



MARK S. HOUSER

City Attorney

# Revisiting the City's Food Truck Regulations 2.5 years later

August 14, 2017 City Council Work Session



## Background Timeline

- The food truck industry began to grow rapidly during the recession when traditional “brick and mortar” restaurants were struggling and after food truck courts in cities throughout the country gained popularity. In fact, some reports show this industry grew approximately 12% annually between 2009-2014.
- The food truck boom made its way to McKinney in the 2012-2014 timeframe but regulations in place at the time were prohibitive.
- In February of 2015, the City Council approved ordinance number 2015-02-006 which established regulations allowing food trucks as a temporary use.
- These regulations represented an iterative, cautious step into new market for McKinney. At the time, the regulations were regarded as a “baby step” knowing that the regulations would eventually need to be modified to address new trends in the industry and intended/unintended consequences of the adopted regulations.
- Based on feedback from members of the City Council and the food truck industry, the time to revisit these regulations may be now.



# Impacts of McKinney's Food Truck Regulations

- Number of Food Truck Temporary Site Permits Issued since Feb. 2015: **1**
- Number of Food Truck Vendor Permits Issued since Feb. 2015: **25\***
- Some of the feedback regarding current regulations:
  - *The separation requirement between food trucks and residential uses is too large.*
    - *Current requirement:*  
*“Food trucks shall not be allowed to engage in sales operations within 300’ of any residential zoning district or any property used for residential purposes.”*
  - *The requirement for the food truck to leave the permitted food truck site every day is too prohibitive.*
    - *Current requirement:*  
*“Food trucks shall not be located or stored at the operation site between the hours of 11 pm and 7 am.”*
  - *The minimum distance required between food truck sites is too large.*
    - *Current requirement:*  
*“Food trucks shall not be allowed to engage in sales operations within 1,000’ of one another.”*

*\* Of the 25 permits issued, it is anticipated that only 9 of these permits were associated with a food truck temporary site.*

## Questions for the City Council to consider

*Have the food truck regulations adopted by the City in February of 2015 had the desired impact?*

*Should the food truck regulations be modified?*

*What regulations, if any, should be modified to make operating a food truck in McKinney easier?*



## Direction Requested

*How would the City Council like to proceed with  
the City's food truck regulations?*

